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THE
AMERICAN SETTLER'S GUIDE:

A BRIEF EXPOSITION

OF THE

PUBLIC LAND SYSTEM

OF THE

UNITED STATES OF AMERICA.

BY

HENRY N. COPP,

Editor of Copp's Public Land Laws, U. S. Mining Decisions, Hand-Book
of Mining Law, and Copp's Land-Owner.

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THE

AMERICAN SETTLER'S GUIDE.

CHAPTER I.

EXPLANATORY.

I. Public and Private Lands.

All real estate in the United States is either public or private.

a. LANDS NOT PUBLIC.

Private lands are owned by private persons or corporations, the titles being derived from the General Government or from a Foreign Power. Titles derived from foreign governments are protected by treaty, and are either complete or inchoate. Complete titles need no further action on the part of the United States, whereas inchoate (incomplete) titles usually require examination, survey, and patent (a).

To distinguish them from government lands, the tracts donated to the several States by the United States, or obtained otherwise as in Texas, are called State lands (b), and are not subject to disposal under the land laws of the United States.

b. PUBLIC LANDS.

All lands owned by the United States are public lands, though usually those only are so termed which are for sale or other disposal by the Government under general laws (c). In this latter sense the term will be used throughout this book. The public lands are within the States of Alabama, Florida, Illinois, Indiana, Michigan, Mississippi, Ohio, Wisconsin, and all the States and Territories west of the Mississippi River, except Texas, Alaska, and the Indian Territory. In Ohio, Indiana, and Illinois, but little public land is to be found, and this is for sale at the General Land Office in Washington. The other public land States and Territories are divided into districts, in each of which is a land office with two officers in attendance, one called the Register, and the other the Receiver. These officers act as agents or salesmen for the Government, and if the sales made by them are approved by the Commissioner of the General Land Office, patents for the lands are issued to the purchasers. A list of the ninety-four local land offices will be found in Chapter VII.

c. KINDS OF PUBLIC LANDS.

1. *Agricultural Lands* are those that will produce agricultural crops. These are disposed of under the Homestead, Preëmption, and Timber Culture laws, and those relating to Public Sale and Private Entry. Grazing lands can be purchased at public sale and private entry.

(a) A land patent is the written document through which the United States transfers to a private party, corporation, or State, all its right and title in the land described. It is signed by the President, countersigned by the Recorder of the General Land Office, and sealed with the seal of that Office. It is the Government's deed.

(b) For the purchase of State lands, see Chapters VI. and VII.

(c) Newhall *v.* Sanger, Landowner, Vol. 3., p. 39.

2. *Desert Lands* are such as will not produce crops without irrigation or an artificial supply of water. These lands, in the States of California, Oregon, and Nevada, and in the Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota, can be purchased under the Act of March 3, 1877. See Chapter VI.

3. *Timber Lands* are those not fit for cultivation, but valued for the timber growing upon them. The timber lands in California, Oregon, Nevada, and Washington Territory, are for sale under the law of June 3, 1878. See Chapter VI.

4. *Stone Lands* are those areas valued for the stone they contain, and are for sale under the same act of Congress as the Pacific Coast timber lands.

5. *Coal Lands* are the lands valued for the deposits of coal therein. They may be bought under the Coal Act of March 3, 1873. See Chapter VI.

6. *Mineral Lands* are those tracts which are more valuable for the metals or other minerals they embrace than for agricultural purposes. These lands may be secured under the mining laws, except coal and stone lands, which are sold under separate acts of Congress. See Chapter VI.

7. *Saline Lands* are lands whereon salt springs are found. The act of January 12, 1877 under which salines can be bought, is very restricted in its operations. It does not apply to any lands in the Territories, nor within the States of Mississippi, Louisiana, Florida, California, and Nevada. See Chapter VI.

These are the several classes of public lands recognized by and for sale under the laws of Congress. They can not be sold under any state law, and state courts have no authority on the question of title to them until after a patent has issued. They cannot be taxed, though the settler's improvements thereon, having the character of personality, may be. The settler should not delay securing his patent because he wishes to save taxes. There is too much risk of losing all his improvements by some other party seeking title to the same tract of land.

II. Several Terms Explained.

The following expressions are often used:

a. PUBLIC SALE.

A public sale of lands is an auction sale. When large bodies of land are to be sold, a proclamation is issued in the President's name, describing the tracts and stating the time and place of sale. When only a few isolated tracts of land, not embraced in the regular proclamations, are to be disposed of, a notice to that effect is published in a newspaper in the vicinity.

The land is sold to the highest bidder for cash only, which must be paid on the same day. There are few public sales at the present time, as the policy of the Government is to encourage pre-emption and homestead settlement and timber culture. A man who buys land at public sale is not compelled to settle on or cultivate it.

b. PRIVATE SALE, PRIVATE ENTRY AND LOCATION.

These three terms mean nearly the same. Where lands are offered at Public Sale and nobody bids for them, they may be bought at any time thereafter at the local land office, if not withdrawn in the meantime from market or reserved for some purpose. This is called a private sale or entry, or when the tract is paid for by a Warrant or Land Scrip it is called a location. In case a tract is withdrawn from market in consequence of an entry afterwards cancelled for any reason, or through erroneous marks on the books of the district office, it is not again subject to private entry until restored by public notice of at least thirty days.

c. OFFERED AND UNOFFERED LANDS.

Offered lands, as may be supposed from the previous statements, are those that have been advertised or proclaimed for sale, but which were not then sold. If not withdrawn or reserved, they remain open to private entry or location.

Unoffered lands are such as were never offered.

d. MINIMUM AND DOUBLE MINIMUM LANDS.

These terms refer to the price of lands. Minimum (lowest) priced lands, when sold at private entry for cash, bring one dollar and twenty-five cents an acre; and this is the lowest price they are allowed to be sold for at public sale.

Lands within railroad limits are supposed to be more valuable on that account, and are rated at two dollars and fifty cents an acre. They are consequently called double-minimum lands.

Under some circumstances, as in case of a withdrawal for railroad purposes, the reserved sections being enhanced in price, require under the law that they should be re-offered at the enhanced or double-minimum price before being subject again to private entry.

III. What Will Pay for Lands.

Lands bought at private entry may be paid for with, 1, Cash: 2, Military Bounty Land Warrants: 3, Agricultural College Scrip: 4, Supreme Court Scrip: 5, Indemnity Land Scrip: 6, Revolutionary Bounty Land Scrip.

Valentine Scrip, Porterfield Scrip, Several Private Act Scrips, Sioux and Chippewa Indian Scrips and Soldier's Additional Homestead Certificates, will pay for such lands, but as they can also be located on unoffered tracts, and some of them even on unsurveyed lands, they sell for several dollars an acre. As the only object in using warrants or scrip for private entry or location is that they can be bought of private dealers for less than one dollar and twenty-five cents per acre, the minimum price, these last named scrips are never used in this way.

a. CASH PURCHASES.

The applicant will first present a written application to the Register for the district in which the land desired is situated, describing the tract he wishes to purchase, giving its area in the following form:

CASH APPLICATION.

No. ——.

LAND OFFICE AT ——,
(*Date*) ——, 18—.

I, ——, of —— county, ——, do hereby apply to purchase the —— of section ——, in township ——, of range ——, containing —— acres, according to the returns of the surveyor general, for which I have agreed with the register to give at the rate of —— per acre.

(Applicant's name) —— ——.

I, —— ——, register of the land office at ——, do hereby certify that the lot above described contains —— acres, as mentioned above, and that the price agreed upon is —— per acre.

—— ——, *Register*.

Thereupon the Register, if the tract is vacant, will so certify to the Receiver, stating the price, and the applicant must then pay the amount of the purchase money.

The Receiver will then issue his receipt for the money paid, giving to the purchaser a duplicate or copy of the receipt as follows:

CASH RECEIPT.

No. ——.

RECEIVER'S OFFICE AT ——,
(*Date*) ——, 18—.

Received from —— ——, of —— county, ——, the sum of —— dollars and —— cents; being in full for the —— quarter of section No. ——, in township No. ——, of range No. ——, containing —— acres and —— hundredths, at $—— per acre.

—— ——, *Receiver*.

$——.

At the close of the month the Register and Receiver will make returns of the sale to the General Land Office at Washington, from which, when the proceedings are found regular, a patent or complete title will be issued.

When patents are ready for delivery, they will in all cases be transmitted to the local office where the location or entry was made, where they can be obtained by the party entitled thereto, upon surrender of the duplicate receipt, or certificate, as the case may be; unless the duplicate shall have been previously filed in the General Land Office, with a request that the patent be delivered to a certain party or sent to a specified place. In no case will the patent be delivered either from Washington or the local office except upon receipt of such duplicate, or, in case of its loss from any cause, upon the filing of an affidavit made by the present *bona fide* owner of the land, accounting for the loss, and also showing ownership of the tracts or a portion thereof embraced in the patent.

In case the duplicate has been duly assigned by the locator, by a valid transfer in accordance with the laws governing transfer of real estate in the State where the land is situated, such assignment will be recognized and patent issued accordingly, provided the duplicate with the assignment thereon shall be filed in the General Land Office prior to the issuing of patent; but in no case will a patent be canceled for the purpose of making a reissue in the name of the assignee, where such assignment is not in possession of the office prior to date of the patent. Transfers of this kind must in all cases comply strictly with the law of the place, and if the assignor be a married man, and the statute requires the wife to join in the deed, it must be complied with, and in case of failure in this or other vital point, the patent will issue only in the name of the original purchaser.

b. LOCATIONS WITH WARRANTS.

Military Bounty-Land Warrants are issued by the Commissioner of Pensions for services in the several wars before 1855. No warrants are issued for services during the late civil war. These warrants call for 40, 60, 80, 120 or 160 acres of land, and being assignable can be located by a purchaser. Warrants and the several kinds of scrip should be bought only of responsible dealers, with a written guarantee that, in case of error in the assignment or other defect, or occasional forgery, the settler will not lose anything thereby. The market price of warrants is from $1.00 to $1.20 per acre.

Application must be made as in cash cases, but must be accompanied by a warrant duly assigned as the consideration for the land; yet where the tract is $2.50 per acre, the party, in addition to the surrendered warrant, must pay in *cash* $1.25 per acre, as the warrant is in satisfaction of only so many acres at $1.25 per acre, or furnish a warrant of such denomination as will, at the legal value of $1.25 per acre, cover the rated price of the land. For example: a tract of 40 acres of land, held at $2.50 per acre, can be paid for with a warrant calling for 40 acres and the payment of $50 in cash, or by surrendering an eighty-acre warrant for the same—the 40 acres to be in full satisfaction for the said location. Or a tract of 80 acres, rated at $2.50 per acre, can be paid for by the surrender of two eighty-acre warrants. If there is a small excess in the area of the tract over the quantity called for on the face of the warrant in any case, such excess may be paid for in money.

A duplicate certificate of location will then be furnished the party, to be held until the patent is delivered, as in cases of cash sales.

The following fees are chargeable by the land officers, and must be *paid at the time of location:*

For a 40-acre warrant, 50 cents each to the register and receiver—total, $1.00.
For a 60-acre warrant, 75 cents " " " " 1.50.
For a 80-acre warrant, $1.00 " " " " 2.00.
For a 120-acre warrant, $1.50 " " " " 3.00.
For a 160-acre warrant, $2.00 " " " " 4.00.

c. AGRICULTURAL COLLEGE SCRIP.

This scrip was issued under the Act of Congress of July 2, 1862, for the establishment of Agricultural Colleges. There is very little of it now in market, and it is valued about the same as warrants. The manner of proceeding to acquire title with this class of paper is the same as in Cash and Warrant cases, the fees to be paid the land officers being the same as on warrants. Only three sections in each township and one million acres in any one state can be located at private entry with this scrip. It is restricted in this class of entries to a technical "quarter-section," that is, land embraced by the quarter-section lines indicated on the official plats of survey; or it may be located on a *part* of a "quarter-section" where such part is taken as in full for a quarter; but it cannot be applied to different sub-divisions to make an area equivalent to a quarter-section.

d. SUPREME COURT SCRIP.

This scrip is issued by the General Land Office, under decrees of the United States Supreme Court, pursuant to Acts of Congress, to satisfy land claimants in Florida, Louisiana and Missouri, whose land has been sold, or otherwise disposed of, by the government. At private entry, this scrip is locatable only upon minimum ($1.25) lands. The law authorizes no fees to be collected thereon by the local officers. The market price is $1.15 to $1.20 per acre.

The party who desires to locate must surrender the scrip, and make application according to the following form:

ACTS OF JUNE 22, 1860, MARCH 2, 1867, AND JUNE 10, 1872.

REGISTER AND RECEIVER'S No. ——. } SCRIP No. ——.

Scrip issued by virtue of a decree rendered on the —— day of ——, by the Supreme Court of the United States, for the claim of —— —— or —— legal representatives.

I, —— ——, hereby apply to locate with the above-described certificate —— quarter of Section No. ——, in Township No. ——, of Range No. ——, containing —— acres, in the district of lands subject to sale at ——.

Witness my hand this —— day of ——, A. D., 188—.

Attest:

—— ——. (Applicant.)

—— ——, *Register.*

—— ——, *Receiver.*

A certificate of entry is then issued, as follows, a duplicate or copy being given to the party, to be held by him as his evidence of title until the patent shall be issued:

ACTS OF JUNE 22, 1860, MARCH 2, 1867, AND JUNE 10, 1872.

CERTIFICATE OF ENTRY. }
REGISTER No. ——. }

REGISTER'S OFFICE,
AT ——, ——, 188—.

I certify that certificate of location, No. ——, for —— acres, issued by virtue of a decree rendered on the —— day of ——, by the Supreme Court of the United States, has this day been located by —— —— on the —— quarter Section No. ——, in Township No. ——, of Range No. ——, containing —— acres.

—— ——, *Register.*

e. INDEMNITY LAND SCRIP.

These certificates of location, issued under the act of June 2, 1858, are used precisely in the same manner as the Supreme Court scrip. The application and certificate are the same, with a few verbal changes.

f. REVOLUTIONARY BOUNTY LAND SCRIP.

This scrip is issued by the General Land Office in satisfaction of Virginia land-warrants. It is "receivable in payment of any lands owned by the United States subject to sale at private entry," and can be applied at the rate of $1.25 per acre, in the same manner as money, in all cases where the tract applied for contains the area specified in the scrip, or more; where it contains less, the excess of the scrip cannot be refunded in money, but may be donated in the relinquishment as applicable to any other tract. There is very little of this scrip in the market.

When located, this scrip must be relinquished by the legal owner in the following form:

I (or we) do hereby relinquish to the United States the within certificate, in payment (or in part payment, as the case may be) of the —— half of the —— quarter of section No. ——, in Township No. ——, of Range No. ——, located in the name of —— ——, at the land office at —— ——, this —— day of ——, 188—.

(Signed) A. B. [Seal.]

Witnesses:
C. D.
E. F.

No acknowledgment of the transfer of said scrip is required, the same being declared by law "assignable by indorsement, attested by two witnesses." The relinquishment may be executed in the same manner, *i. e.*, on the back of the paper.

No fees are to be paid the local officers on the location of this scrip, it being treated as so much money.

A duplicate receipt is issued to the locator.

g. OTHER KINDS OF SCRIP.

The other kinds of scrip heretofore named are used by speculators almost exclusively to locate valuable tracts of land that, as a rule, have been overlooked or not entered previously through some error or misunderstanding. Settlers therefore have no special interest in them; though they should bear in mind that unless they strictly comply with the law in the matter of filing their preliminary declarations, they are liable to have their improvements taken from them by speculators by the use of these several kinds of scrip.

Valentine, Sioux and Chippewa Scrips can be located on unsurveyed land that is unoccupied, unimproved and non-mineral in character. Porterfield warrants, Soldiers' Additional Homestead Certificates, and Private Act Scrips in general, can be located on unoffered land subject to Homestead entry. Parties who wish to purchase Military Bounty Land Warrants, Supreme Court, Valentine, or other Scrips, or Soldiers' Additional Homestead Certificates, will find, following Chapter VII, advertisements of the principal dealers throughout the country.

IV. Citizenship.

As aliens cannot acquire valid titles to real estate under the pre-emption, homestead, and other laws, the privileges of which are restricted to citizens, or those who have declared their intention to become such, it is important that foreigners seeking identification with the American community should be advised of the legal steps necessary to acquire citizenship. Any free white alien, over the age of twenty-one years, may at any time after arrival declare before any court of record having common law jurisdiction (with a clerk or prothonotary and seal) his intention to become a citizen, and to renounce forever all foreign allegiance. The declaration must be made at least two years before application for citizenship. At the expiration of two years after the declaration, and at any time after five years' residence, the party desiring naturalization, if *then* not a citizen, denizen, or subject of any country at war with the United States, should appear in a court of record, and there be sworn to support the Constitution of the United States and renounce foreign allegiance. If he possessed any hereditary title or order of nobility, such also must be renounced, and satisfactory proof produced to the court by the testimony of witnesses, citizens of the United States, of the five-years residence in the country, one year of which must be within the State or Territory where the court is held, and that during the five-year period he was a man of good moral character and attached to the principles of the Constitution; whereupon he will be admitted to citizenship, and thereby his children under twenty-one years of age, if dwelling in the United States, will also be regarded as citizens.

Where the alien has made his declaration and dies before being actually naturalized, the widow and children become citizens of the United States, and entitled to all rights and privileges as such, upon taking the prescribed oaths.

Any free white alien, being a minor, and under the age of twenty-one years at the time of arrival, who has resided in the country three years next preceding his majority of twenty-one years, may, after reaching such period and on five years' residence, including the three years of his minority, be admitted to citizenship without a preliminary declaration of intentions, provided he *then* makes the same, averring also on oath and proving to the court that for the past three years it had been his intention to become a citizen; also showing the fact of his residence and good character.

Children of citizens of the United States born out of the country are deemed citizens, the right not descending, however, to persons whose fathers never resided in the country; and any woman who might legally be naturalized, married, or who shall be married to a citizen of the United States, is held to possess citizenship.

An alien, twenty-one years and over, who enlists in the regular or volunteer army, and is honorably discharged therefrom, may be admitted to citizenship upon his simple petition and satisfactory proof of one year's residence prior to his application, accompanying the same with proof of good moral character and honorable discharge.

Proof of his citizenship may be procured from any court of record having common law jurisdiction, with a clerk and prothonotary and seal. It will be perceived that service alone does not secure citizenship. The petition and proof to the satisfaction of the court are essential, and citizenship thus obtained is necessary before homestead entry can be made.

V. Presentation of Appeals.

Any person making application to file upon or enter a tract of public land, having complied with the law and regulations touching the presentation of such application, and feeling aggrieved by the refusal of the Register and Receiver to recognize his claim, or by any order, direction, or condition affecting the same, may appeal from the action of those officers to the Commissioner of the General Land Office, who is by law invested with the supervision and control of all matters relating to the disposal of the public lands, subject to the direction of the Secretary of the Interior.

For the purpose of enabling such appeal to be taken and perfected, the Register and Receiver will indorse upon the written application the date when presented and their reasons for refusing it, promptly advising the party in interest of the facts, and note upon their records a memorandum of the transaction. The party aggrieved will then be allowed thirty days from the receipt of notice of such action, within which to file his appeal to the Commissioner.

The appeal must be in writing, definitely setting forth in clear and concise terms the specific points of exception to the decision appealed from, and the reason or reasons upon which such exceptions are based.

Of the sufficiency of such appeal, the General Land Office will be the judge, and will dismiss from further notice any case wherein the appeal is based upon frivolous grounds, or where the proper formalities and grounds are wanting, unless, in the record itself, either of the case or upon the books of this office, some sufficient cause shall be found for further consideration under the general power of supervision vested in the Commissioner by law.

Upon objection to the finding of the General Land Office regarding an appeal, the matter will be reported to the Honorable Secretary of the Interior for his direction therein.

The appeal must in all cases be filed with the district officers, to be forwarded by them with a full report of the case to the General Land Office.

This report should recite the proceedings had, to wit: The application and rejection, with the reasons therefor, and also the status of the tract involved, as shown by the records of the office, together with a reference to all entries, filings, annotations, memoranda, and correspondence shown by such record relating thereto, so as to direct the attention of the Commissioner to all the material facts and issues necessary to a proper determination of the questions presented.

No appeal from the decision of the Register and Receiver will be received at the General Land Office unless forwarded through the local officers in the manner herein prescribed.

The report should be forwarded at once upon the filing of the appeal, except in contested cases after regular hearing, when, unless all parties request its earlier transmission, it should not be made until the expiration of the thirty days included in the notice, in order that all parties may have full opportunity to examine the record and prepare their argument upon the questions at issue. All documents once received must be kept on file with the cases, and no papers will be allowed under any circumstances to be removed from such files or taken from the custody of the Register and Receiver; but access to the same under proper rules, so as not to interfere with necessary public business, should be permitted to the parties in interest, under the supervision of those officers.

Upon any question relating to the disposal of the public lands, appeal from the decision of the Commissioner of the General Land Office will lie to the Secretary of the Interior (Revised Statutes, secs. 441, 2273), except in cases of interlocutory orders and decisions, and orders for hearing, or other matters resting in the sound discretion of the Commissioner. Such latter cases constitute matters of exception, which should be noted, and they will be considered by the Secretary on review.

The appeal is required to be made in writing, fairly and specifically stating the points of exception to the decision appealed from, and must be filed either with the Register and Receiver for transmission, or with the Commissioner, within sixty days from receipt, by the party or his attorney, of the notice of the decision.

After appeal is filed, the fact of its receipt and pendency will be promptly communicated to the district office and to the parties, and thirty days from service of such notice will be allowed for the filing of argument on the points involved in the controversy. At the expiration of the time prescribed, the papers and record will be forwarded to the Secretary of the Interior. All arguments must be filed with the Commissioner within the time specified in the notice, in order that they may be referred to and considered in transmitting the case to the Secretary, if deemed expedient by the Commissioner. Examination of cases on appeal to the Secretary will be facilitated by filing in printed form such argument as it is desired to have considered.

Decisions of the Commissioner not appealed from, within the period prescribed, become final, and the case will be regularly closed. (Revised Statutes, sec. 2273.)

The decision of the Secretary is necessarily final, so far as respects the action of the Executive.

CHAPTER II.

UNITED STATES SYSTEM OF SURVEYS.

How to Find a Tract of Land.

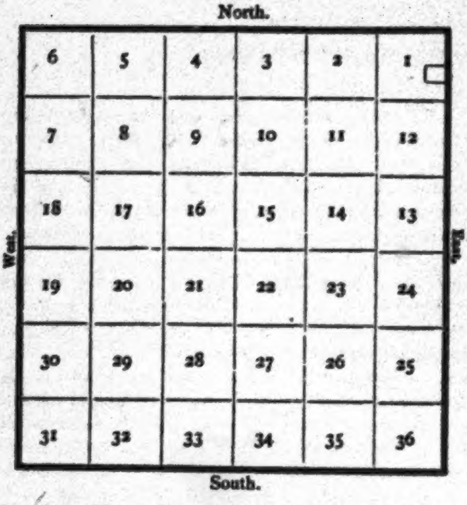
The beginning or initial point for the surveys within a given surveying district having been determined upon, a *principal base* line (see diagram, line A B.,) is surveyed on a true parallel of latitude east and west therefrom. The *principal meridian* (see diagram, line C D.,) is extended due north and south of the same point. The law requires that the meridional lines shall be run on the true meridian; therefore, in order to counteract the error that would otherwise result from the convergency of meridians as they run to the north pole, and also to check errors arising from inaccuracies in measurements on meridian lines, *standard parallels* or *correction lines* (see diagram, lines E F. and G H.,) are run and marked at every four townships, or twenty-four miles, north of the base, and at every five townships, or thirty miles, south of the same. Guide meridians (see diagram, line I K.,) are next surveyed at intervals of eight ranges, or forty-eight miles, east and west of the principal meridian, starting north of the base, in the first instance, from that line and closing on the first standard north; then starting from the first standard, and closing on the second standard north, and so on. South of the base line the guide meridians start from the first standard south and close on the base line; then starting from the second standard and closing on the first standard, and, again, starting from the third standard and closing on the second, and so on. The closing corners on the base line and standard parallels are established at the intersection of the meridional lines therewith, thus, owing to the convergency of meridians, occasioning a double set of corners on those lines, which are designated as "standard corners" and "closing corners." In rugged mountain regions it has been found necessary to depart somewhat from the regular system of extending the standard lines, owing to the impracticability of surveying them in place. Under these circumstances, the principal lines are run and marked in localities admitting of the extension, by means of offsets on township lines, marking them as such in the field.

The parallelograms formed by the base line, principal meridian, standard parallels, and guide meridians, twenty-four by forty-eight miles in extent, *north* of the base line, and thirty by forty-eight miles *south* of the base, constitute the frame-work of the rectangular system of surveys.

These parallelograms are each subdivided into townships six miles square, containing, as near as may be, 23,040 acres, and again each township is subdivided into thirty-six sections one mile square, containing, as near as practicable, 640 acres each. The sections of one mile square are the smallest tracts the out-boundaries of which the law requires to be actually surveyed. Their minor subdivisions are defined by law, and the surveyors-general, in protracting township plats from the field-notes of sections, designate them in red ink, the lines being imaginary, connecting opposite quarter-section corners, thereby dividing the section into four quarter-sections of 160 acres, and these, in their turn, into quarter-quarter sections of 40 acres each, by imaginary lines starting from points equidistant between the section and quarter-section corners and running to opposite corresponding points. These imaginary lines may at any time be actually surveyed by the county surveyor at the expense of the settler.

The sections in each township are numbered, beginning in the north-east corner, from 1 to 36 inclusive as shown in the township plat on the next page. Sections 16 and 36 are called school sections, and if agricultural belong to the State or are reserved in a Territory, for school purposes. They can only be bought at the State Land Office unless they contain minerals or were settled upon prior to survey, when they are sold at the United States Land Office. The sections on the northern and western boundaries of a township are fractional, *i. e.*, they do not contain exactly 640 acres. The small fragments are called Lots, and are numbered from from 1 upwards in each section. Frequently sections in the interior are fractional on account of lakes, reservations, and other causes.

A TOWNSHIP.



6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

HOW TOWNSHIPS ARE NUMBERED.

A tier of townships running north and south is called a range, and each range is numbered as it is east or west of the Principal Meridian. Each township is also numbered as it is north or south of the Base Line.

A glance at the diagram on the following page will illustrate the method of distinguishing townships. 5 N means a fifth township north of the base line. 2 S means a second township south of the base line. 5 E means a township in range 5 east of the Principal Meridian. 2 W means a township in range 2 west of the Principal Meridian. Hence the township in the extreme northeast corner of the Diagram is Township 5 North of Range 8 East. The Principal Meridian is named, if otherwise there is a possibility of mistake. The 40-acre tract in the extreme southwest corner of school section 16 in the same township would be described thus: The southwest quarter of the southwest quarter of section 16, in Township 5 north, of Range 8 East (Mount Diablo Meridian, California). In figures, it would be written S. W. ¼, S. W. ¼, Sec. 16, T. 5 N., R. 8 E., M. D. M. Where would you find the following tract? N. E. ¼, S. E. ¼, Sec. 1, T. 2 S., R. 6 E.—Ans. It is marked on the Diagram with a X, and on the Township plat with a square.

HOW TO TELL CORNERS.

The following extracts from the Manual of Surveying Instructions illustrate the manner of establishing the corners of the public surveys:

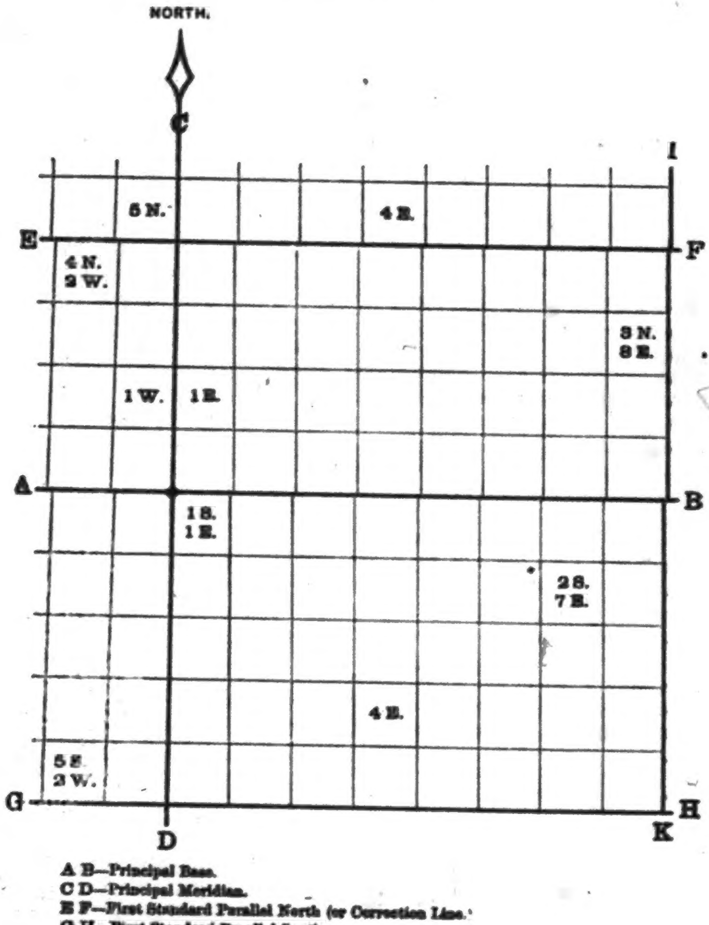
MANNER OF ESTABLISHING CORNERS BY MEANS OF POSTS.

Township, sectional or mile corners, and quarter sectional or half mile corners, will be perpetuated by planting a post at the place of the corner, to be formed of the most durable wood of the forest at hand.

The posts must be set in the earth by digging a hole to admit them *two feet* deep, and must be very securely rammed in with earth, and also with stone, if any be found at hand. The portion of the post which extends above the earth must be *squared* off sufficiently smooth to admit of receiving the marks thereon, to be made with appropriate marking irons, indicating what it stands for. Thus the sides of *township corner posts* should square at least *four* inches, (the post itself being *five* inches in diameter,) and must protrude *two feet* at least, above the ground; the sides of *section corner posts* must square at least *three inches*, (the post itself being *four* inches in diameter,) and protrude *two feet* from the ground; and the *quarter section corner posts* and *meander corner posts* must be *three* inches *wide*, presenting *flattened* surfaces, and protruding *two* feet from the ground.

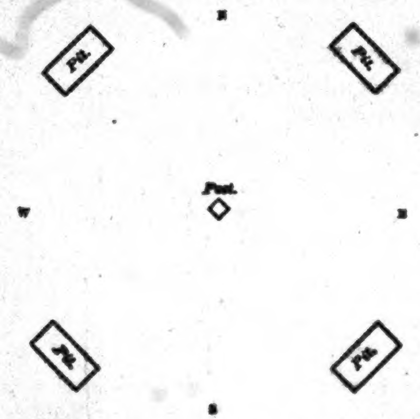
DIAGRAM

Illustrating the frame-work of Public Surveys in the United States.


NORTH.
C
I
5 N.
4 E.
E
F
4 N.
2 W.
3 N.
8 E.
1 W.
1 E.
A
B
1 S.
1 E.
2 S.
7 E.
4 E.
5 S.
2 W.
G
H
D
K

A B—Principal Base.
C D—Principal Meridian.
E F—First Standard Parallel North (or Correction Line.)
G H—First Standard Parallel South.
I K—First Guide Meridian East.

Where a township post is a corner common to *four* townships, it is to be set in the earth *diagonally*, thus:

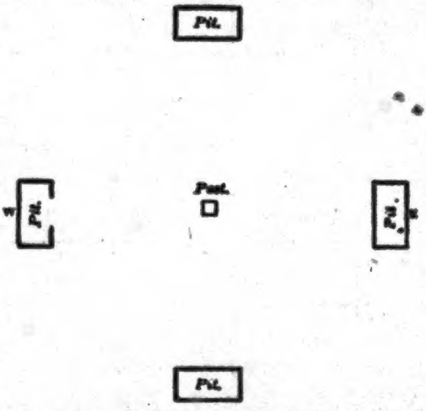


On each surface of the post is to be marked the number of the particular township and its range, which it *faces*. Thus, if the post be a common boundary to four townships, say *one* and *two*, south of the base line, of range *one*, west of the meridian; also, to townships *one* and *two*, south of the base line, of range *two*, west of the meridian, it is to be marked thus:

From N. to E.	R. 1 W. T. 1 S S. 31	From E. to S.	1 W. 2 S. 6
From N. to W.	2 W. 1 S. 36	From W. to S.	2 W. 2 S. 1

These marks are not only to be distinctly but *neatly* cut into the wood, at least the eighth of an inch deep; and to make them yet more *conspicuous* to the eye of the anxious explorer, the deputy must apply to all of them a *streak of red chalk*.

Section or mile-posts, being corners of sections, and where such are common to *four* sections, are to be set *diagonally* in the earth, (in the manner provided for township corner posts) and on each side of the squared surfaces (made smooth, as aforesaid, to receive the marks) is to be marked the appropriate *number* of the particular one of the *four sections*, respectively, which such side *faces;* also, on one side thereof are to be *marked* the numbers of its *township* and *range;* and to make such marks yet more *conspicuous* in manner aforesaid, a streak of *red chalk* is to be applied.



Opposite is represented a corner mound common to two townships or two sections only.

In every township, subdivided into thirty-six sections, there are twenty-five interior section corners, each of which will be *common* to *four* sections.

A quarter section, or half-mile post, is to have no other mark on it than ¼ S., to indicate what it stands for.

NOTCHING CORNER POSTS.

Township corner posts, common to four townships, are to be notched with *six* notches on each of the four angles of the squared part set to the cardinal points.

All mile posts *on township lines* must have as many notches on them, on two opposite *angles* thereof, as they are miles distant from the township corners, respectively. Each of the posts at the corners of sections in the *interior* of a township must indicate, by a number of notches on each of its four corners directed to the cardinal points, the corresponding number of miles that it stands from the *outlines* of the township(*). The four sides of the post will indicate the number of the section they respectively *face*. Should a tree be found at the

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(*) Only on two edges in surveys made since 1864. See page 25.

place of any corner, it will be marked and notched as aforesaid, and answer for the corner in lieu of a post, the kind of tree and its diameter being given in the field-notes.

BEARING TREES.

The position of all corner posts, or corner trees, of whatever description that may be established, is to be evidenced in the following manner, viz: From such post or tree the course must be taken and the distances measured to two or more adjacent trees in opposite directions, as nearly as may be, and these are called "bearing trees." Such are to be distinguished by a large *smooth blaze*, with a *notch* at its lower end, facing the corner, and in the blaze is to be marked the number of the *range*, *township*, and *section*; but at quarter-section corners nothing but ¼ S. need be marked. The letters B. T. (bearing tree) are also to be marked upon a smaller blaze directly under the large one, and as near the ground as practicable.

At all township corners, and at all section corners, on range or township lines, *four* bearing trees are to be marked in this manner, one in each of the adjoining sections.

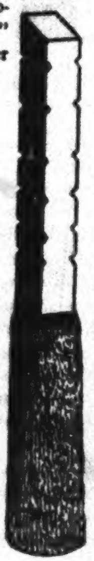
At interior section corners *four* trees, one to stand within each of the four sections to which such corner is common, are to be marked in manner aforesaid, if such be found.

A tree supplying the place of a corner post is to be marked in the manner directed for posts, but if such tree should be a beech, or other *smooth bark* tree, the marks may be made on the *bark*, and the tree notched.

From quarter section and meander corners two bearing trees are to be marked, one within each of the adjoining sections.

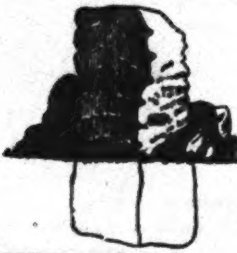
QUARTER SECTION CORNER POST.

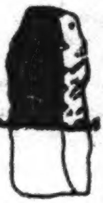
SECTION CORNER POST.


TOWNSHIP CORNER POST.

CORNER STONES.

Where it is deemed best to use *stones* for boundaries, in lieu of posts, surveyors may, at *any* corner, insert endwise into the ground, to the depth of 7 or 8 inches, a stone, the number of cubic inches in which shall not be less than the number contained in a stone 14 inches long, 12 inches wide, and 3 inches thick—equal to 504 cubic inches—the edges of which must be set north and south, on north and south lines, and east and west, on east and west lines; the dimensions of each stone to be given in the field-notes at the time of establishing the corner. The kind of stone should also be stated.

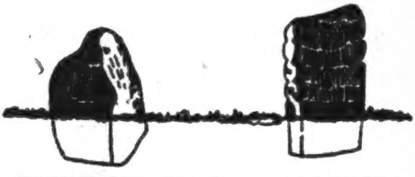

TOWNSHIP CORNER STONE.


SECTION CORNER STONE.

MARKING CORNER STONES.

Stones at township corners, common to four townships, must have *six* notches, cut with a pick or chisel on each edge or side toward the cardinal points; and where used as section corners on the range and township lines, or as section corners in the interior of a township, they will also be notched, to correspond with the directions given for notching posts similarly situated.

Posts or stones at township corners on the base and standard lines, and which are common to two townships on the north side thereof, will have *six* notches on each of the *west*, *north*, and *east* sides or edges; and where such stones or posts are set for corners to two townships *south* of the base or standard, *six* notches will be cut on each of the west, *south*, and east sides or edges.


QUARTER SECTION CORNER STONE. SECTION CORNER.

Stones, when used for quarter section corners, will have ¼ cut on them—on the west side on north and south lines, and on the north side on east and west lines.

MOUNDS.

Whenever bearing trees are not found, mounds of earth, or stone, are to be raised *around posts* on which the corners are to be marked in the manner aforesaid. Wherever a mound of earth is adopted, the same will present a conical shape.

Prior to piling up the earth to construct a mound, there is to be dug a spadeful or two of earth from the corner boundary point, and in the cavity so formed is to be deposited a *marked stone*, or a portion of *charcoal* (the quantity whereof is to be noted in the field-book); or in lieu of charcoal or marked stone, a *charred stake* is to be driven twelve inches down into such centre-point; either of these will be a *witness* for the future, and whichever is adopted, the fact is to be noted in the field-book.

When mounds are formed of *earth*, the spot from which the earth is taken is called the "*pit*," the centre of which ought to be, wherever practicable, at a uniform distance and in a uniform direction from the centre of the mound. There is to be a "pit" on *each* side of every mound.

At meander corners (*) the "pit" is to be directly on the line, *eight links* further from the water than the mound. Wherever necessity is found for deviating from these rules in respect to the "pits," the course and distance to each is to be stated in the field-books.

Perpetuity in the mound is a great desideratum. In forming it with light alluvial soil, the surveyor may find it necessary to make due allowance for the future settling of the earth, and thus making the mound more elevated than would be necessary in a more compact and tenacious soil, and increasing the base of it. In so doing, the relative proportions between the township mound and other mounds is to be preserved as nearly as may be.

The earth is to be pressed down with the shovel during the process of piling it up. Mounds are to be *covered* with sod, grass side up, where sod is to be had; but, in forming a mound, *sod* is never to be *wrought up* with the earth, because sod decays, and in the process of decomposing it will cause the mound to become porous, and therefore liable to premature destruction.

POSTS IN MOUNDS

Must show above the top of the mound ten or twelve inches, and be noticed and marked precisely as they would be for the same corner without the mound.

WITNESS MOUNDS TO TOWNSHIP OR SECTION CORNERS.

If a township or section corner, in a situation where bearing or witness trees are not found within a reasonable distance therefrom, shall fall within a ravine, or in any other situation where the nature of the ground, or the circumstances of its locality, shall be such as may prevent or prove unfavorable to the erection of a mound, you will perpetuate such corner by selecting in the immediate vicinity thereof, a suitable plot of ground as a site for a bearing or *witness mound*, and erect thereon a mound of earth in the same manner and conditioned in every respect, with *charcoal*, *stone*, or *charred stake*, deposited beneath, as before directed; and measure and state in your field-book the distance and course from the position of the true corner of the bearing or witness mound so placed and erected.

(*) For meandering navigable streams, see page 26.

DOUBLE CORNERS.

Double corners are to be nowhere except on the base and standard lines, whereon are to appear both the corners which mark the intersections of the lines which close thereon, and those from which the surveys start on the north. On these lines, and at the time of running the same, the township, section, and quarter-section corners are to be planted, and each of these is a corner common to *two* (whether township or section corners), on the north side of the line, and must be so marked.

The corners which are established on the standard parallel, at the time of running it, are to be known as "*standard corners*," and, in addition to all the *ordinary* marks (as herein prescribed), they will be marked with the letters S. C. Closing corners will be marked with the letters C. C., in addition to other marks.

You will recollect that the corners (whether township or section corners) which are *common* to *two* (two townships or two sections), are not to be planted *diagonally* like those which are common to *four*, but with the flat sides facing the cardinal points, and on which the marks and notches are made as usual. This, it will be perceived, will serve yet more fully to distinguish the standard parallels from all other lines.

Instructions for Surveys Made Since June 1, 1864.

By instructions to surveyors general, dated June 1, 1864, the Surveying Manual was modified in the following particulars:

POSTS IN MOUNDS.

All posts in mounds will hereafter be planted or driven into the ground to the depth of twelve inches, at the precise corner point; and the charcoal, charred stake, or marked stone required in the Manual will be deposited twelve inches below the surface, against the north side of the post when the deputy is running north, and against the west side when the deputy is running west, etc.

Township mounds will be five feet in diameter at their base, and two and a half feet in perpendicular height. Posts in township mounds are therefore required to be four and a half feet in length, so as to allow twelve inches to project above the mound.

Mounds at section, quarter-section, and meander corners will be four and a half feet in diameter at their base, and two feet in perpendicular height, the posts being four feet in length, leaving twelve inches to project above the mound.

Pits should be of uniform dimensions. The pits for a township mound will be eighteen inches wide, two feet in length, and at least twelve inches deep, located six feet from the posts. At section corners the pits will be eighteen inches *square*, and not less than twelve inches in depth.

At township corners common to *four* townships, the pits will be dug on the lines and lengthwise to them. On base and standard lines, where the corners are common to only *two* townships or sections, three pits only will be dug—two in line on either side of the post, and one on the line north or south of the corner, as the case may be. By this means the standard and closing corners will be readily distinguished from each other.

NOTCHING SECTION CORNER POSTS.

Posts or stones at the corners of sections in the interior of townships will have as many notches on the *south* and *east* edges as they are miles from the south and east boundaries of the township, instead of being notched on all four edges, as directed in the Manual.

MARKING CORNERS IN REGIONS REMOTE FROM TIMBER, AND DESTITUTE OF STONE.

By circular of July 24, 1873, surveys of such lands are marked thus: In addition to the manner of establishing corners of public surveys by mounds of earth with deposits at the point of the corner, deputy surveyors are required to drive in the center of one of the pits at each section and township corner, sawed or hewed stakes not less than two inches square and two feet in length, said stakes to be marked in the manner heretofore prescribed for marking corner-posts, and to be driven one foot in the ground. At corners common to four townships, the stakes are to be driven in the pits east of the mound, and at corners common to four sections the stakes are to be driven in the pit southeast of the mound, and at corners common to two townships or sections they are to be driven in the pit east of the corner. This requirement does not apply to quarter-section corners.

BEARING TREES.

Where a tree not less than two and a half inches in diameter can be found for a bearing tree within three hundred links of the corner, it should be preferred to the pit.

MEANDERING NAVIGABLE STREAMS.

Standing with the face looking *down* stream, the bank on the *left* hand is termed the "left bank," and that on the *right* hand the "right bank." These terms are used to distinguish the two banks of a river or stream.

Both banks of *navigable* rivers are meandered by taking the courses and distances of their windings. At those points where either the township or section lines intersect the banks of a navigable stream, posts, or where necessary, mounds of *earth* or *stone*, are established, called "meander corners."

Rivers are deemed navigable waters when they can be used as highways of commerce between the states. The right of a grantee of land bordering on a navigable river stops with the bank of the stream, though he may construct landings and wharves. New States have the same rights, sovereignty and jurisdiction over navigable streams as the original States. The State has sovereignty over ground that was part of the bed of a meandered navigable stream at the time of her admission, and the public land laws do not apply to it subsequently. (*)

GENERAL REMARKS.

The previous instructions are not always complied with by rascally surveyors, and in some localities no remnants of surveys are to be found. In the old settled States this is to be expected, but in the Territories and States where the surveys have lately been made, there is not often a satisfactory reason for the obliteration of corners. Petitions for resurvey, where there are no corners over wide areas, endorsed by the county surveyors, should be sent to the General Land Office, or to the delegation in Congress. Settlers should see that the surveys in progress are correctly made as indicated herein, and complaints of irregularities should be sent to the Surveyor General, or the Commissioner of the General Land Office.

Surveys May be Made at the Expense of Settlers in Certain Cases.

Applications for surveys must be made to the Surveyor General in writing, upon the receipt of which he will furnish the applicant with an estimate of how much the desired survey will cost. On receiving a certificate of deposit of a United States depositary, showing that the required sum has been deposited with him in a proper manner to pay for the work, the Surveyor General will contract with a competent United States deputy surveyor, and have the survey made and returned in the same manner as other public surveys are.

The payment of the amount required for the survey will not give the depositor any priority of claim or right to purchase the land, or in any manner affect the claim or claims of any party or parties thereto; and, when surveyed, it will be subject to the same general laws and regulations in relation to the disposition thereof as other public lands are.

The township to be surveyed must be within the range of the regular progress of the public surveys embraced by existing standard lines.

Where parties do not use the certificates of deposits in payment of their own land, they may assign them to others who may use them in payment of land under the pre-emption or homestead laws. Such assignments must be acknowledged before the Register or Receiver, or before some person duly commissioned to acknowledge legal instruments.

(*) N. B. Bradley, Copp's Public Land Laws, p. 763.

The following rulings were made in the case of José Sanchez, *Land Owner*, Vol. 1, p. 35:

The term settler, as used in the acts of May 30, 1862, and March 3, 1871, includes all persons who have settled in good faith, and desire a survey in order that they may perfect or initiate titles, though it is not held that a homestead privilege is conferred prior to survey.

A deposit, under the above acts, made by a settler who intended to claim under the homestead law for the purpose of securing a survey, and who afterward entered the land and then commuted, should be received in part payment for the land.

A homestead claimant in his commutation may change the description of the land so as to place his entire claim within the township surveyed, if the change is immaterial, and does not affect any adverse claim.

HOW TO SUBDIVIDE SECTIONS.

The course to be pursued in the subdivision of sections is to run straight lines from the established quarter-section corners—United States surveys—to the opposite corresponding corners, and the point of intersection of lines so run will be the corner common to the several quarter-sections, or, in other words, the legal centre of the section.

In the subdivision of fractional sections where no opposite corresponding corners have been or can be fixed, the subdivision lines should be ascertained by running from the established corners due north, south, east, or west lines, as the case may be, to the water-course, Indian boundary line, or other external boundary of such fractional section.

The law presupposes the section lines surveyed and marked in the field by the United States deputy surveyors to be due north and south, or east and west lines, but in actual experience this is not always the case; hence, in order to carry out the spirit of the law, it will be necessary, in running subdivisional lines through fractional sections, to adopt mean courses where the section lines are not due lines, or to run the subdivision line parallel to the section line where there is no opposite section line.

Upon the lines closing on the north and west boundaries of a township, the quarter-section corners are established by the United States deputy surveyors at precisely forty chains to the north or west of the last interior section corner, and the excess or deficiency in the measurement is thrown on the outer tier of lots, as per Act of Congress approved May 10, 1800.

In the subdivision of quarter-sections the quarter-quarter corners are to be placed at points equidistant between the section and quarter-section corners and between the quarter corners and the common centre of the section, *except* on the last half-mile of the lines closing on the north or west boundaries of a township, where they should be placed at twenty chains (original measurement) to the north or west of the quarter-section corner.

The subdivision lines of fractional quarter-sections should be run from points on the section lines, intermediate between the section and quarter-section corners, due north, south, east, or west to the lake, water-course, or reservation, which renders such tracts fractional.

When there are double sets of section corners on township and range lines, the quarter corners for the sections south and east of the lines are not established in the field by the United States surveyors, but in subdividing such sections said quarter corners should be so placed as to suit the *calculations of the areas of the quarter-sections adjoining the township boundaries*, as expressed upon the official plat, adopting a proportional measurement where the present measurement of the north or west boundaries of the sections differs from the original measurement.

RE-ESTABLISHMENT OF LOST CORNERS.

The original corners, when they can be found, must stand as the true corners they were intended to represent, even though not exactly where strict professional care might have placed them in the first instance.

Missing corners should be re-established in the identical localities they originally occupied. When the point cannot be determined by the existing land-marks in the field, resort must be had to the field-notes of the original surveys. The law provides that the lengths of the lines as stated in the field-notes shall be considered as the true lengths thereof, and the distances between corners set down in the field-notes constitute proper data from which to determine the true locality of a missing corner; hence the rule that all such should be restored at distances proportionate to the original measurements between existing original corners. That is, if the measurement between two existing corners overruns or falls short of that stated in the field-notes, the excess or deficiency should be distributed proportionately among the intervening section lines between the said existing corners standing in their original places. Missing section corners in the interior of townships should be reëstablished at proportionate distances between the nearest existing original corners *north* and *south* of the missing corners. As has been observed, no existing original corner can be disturbed, and it will be plain that any excess or deficiency in measurements between existing corners cannot in any degree affect the distances beyond said existing corners, but must be added or subtracted proportionately to or from the intervals embraced between the corners which are still standing.

CHAPTER III.

HOMESTEADS.

I. Homesteads in General.

To the people of Europe, where the high price of real estate confers distinction upon its owner, it seems beyond belief that the United States should give away one hundred and sixty acres of land for nothing. Yet such is the fact; a compliance with the Homestead Law, and the payment of small fees and commissions to the local officers, secure title to a quarter section of government land. Laborers in other countries, who find it difficult to support their families, can here acquire wealth, social privileges, and political honors, by a few years of intelligent industry and patient frugality(a).

All in the Atlantic States, who are discouraged with the slow, tedious methods of reaching independence, will find rich rewards awaiting settlers on the public lands, who have talent and energy, while the unfortunate in business and they who are burdened with debt, can, in the West and South, start anew in the race of life, for the Homestead Law expressly declares that "no lands acquired under the provisions of this chapter (Homesteads) shall in any event become liable to the satisfaction of any debt contracted prior to the issuing of the patent therefor."

The laws extending the homestead privilege, give to every citizen, and to those who have declared their intention to become citizens, the right to a homestead on *surveyed* lands—not mineral in character(b). This is conceded to the extent of one hundred and sixty acres of minimum lands, and one hundred and sixty acres of the *even* sections (*i. e.*, 2, 4, 6, 8, etc.,) of townships within railroad or military road grants(c). Only eighty acres of double minimum lands of the odd sections within such grants not belonging to the road, or eighty acres of odd or even sections within grants for other purposes, can be entered under the Homestead Laws. In Missouri and Arkansas, by Act of Congress, of July 1, 1879(d), a qualified applicant may enter one hundred and sixty acres of the odd sections within the limits of grants of the even sections to railroads and military roads.

a. APPLICATION AND ENTRY.

In connection with an application in the following form:

APPLICATION No. ——, LAND OFFICE AT —— ——,
(*Date*) —— ——, 18—.

I, —— ——, of ——, do hereby apply to enter, under section 2289 of the Revised Statutes of the United States, the —— of section ——, in township ——, of range ——, containing —— acres.

—— ——.

LAND OFFICE AT —— ——,
(*Date*) —— ——, 18—.

I, —— ——, register of the land office, do hereby certify that the above application is for surveyed lands of the class which the applicant is legally entitled to enter under section 2289 of the Revised Statutes of the United States, and that there is no prior, valid, adverse right to the same.

—— ——, *Register*.

(a) The present Secretary of the Interior, who decides all questions coming before him from the General Land Office, is a native of Germany. The Commissioner of the General Land Office, next preceding the present one, was a native of England. The late General Shields, another Commissioner of the General Land Office, was a native of Ireland.

(b) Mineral lands in Kansas, Missouri, Michigan, Minnesota, and Wisconsin, may be included in Homestead entries.

(c) In Alabama and Mississippi, and elsewhere, except Missouri and Arkansas, where the even sections were granted and the odd reserved, only eighty acres of double minimum lands can be homesteaded, except by soldiers and sailors, their widows and orphan children. General Land Office Instructions, September 1, 1879, p. 11.

(d) *Land Owner*, Vol. 6, p. 83.

The party must present the following affidavit:

LAND OFFICE AT ——— ———,
(*Date*) ——— ———, 18—.

I, ——— ———, of ———, having filed my *application*, No. ——, for an entry under section 2289 of the Revised Statutes of the United States, do solemnly swear that [here state whether the applicant is the head of a family, or over twenty-one years of age; whether a citizen of the United States, or has filed his declaration of intention of becoming such; or, if under twenty-one years of age, that he has served not less than fourteen days in the Army or Navy of the United States during actual war; that said application, No. ——, is made for his or her exclusive benefit; and that said entry is made for the purpose of actual settlement and cultivation, and not, directly or indirectly, for the use or benefit of any other person or persons whomsoever,] and that I have not heretofore had the benefit of said section 2289.

Sworn to and subscribed, this —— day of ———, before

——— ———,
——— ———,
Register, [*or Receiver*.]

He must thereupon pay the legal fee and that part of the commissions which is payable when the entry is made, as given in the tables below:

For homestead entries on lands in Michigan, Wisconsin, Iowa, Missouri, Minnesota, Kansas, Nebraska, Dakota, Alabama, Mississippi, Louisiana, Arkansas, and Florida, commissions and fees are to be paid according to the following table:

Acres.	Class of land.	Commissions.		Fee.	Total sum paid.
		Payable *when entry is made.*	Payable when *certificate* issues.	Payable when entry is made.	
160	$2 50	$8 00	$8 00	$10 00	$26 00
80	2 50	4 00	4 00	5 00	13 00
40	2 50	2 00	2 00	5 00	9 00
160	1 25	4 00	4 00	10 00	18 00
80	1 25	2 00	2 00	5 00	9 00
40	1 25	1 00	1 00	5 00	7 00

In addition to the States and Territories above named, the same rates will apply to Ohio, Indiana, and Illinois, if any vacant tracts can be found liable to entry in these three States, where but very few isolated tracts of public land remain undisposed of. All entries in these last named states are made at the General Land Office in Washington.

In the Pacific *and other* political divisions, *viz:* on lands in California, Nevada, Oregon, Colorado, New Mexico, and Washington, and in Arizona, Idaho, Utah, Wyoming, and Montana, the commissions and fees are to be paid according to the following table:

Acres.	Class of land.	Commissions.		Fee.	Total sum paid.
		Payable *when entry is made.*	Payable when *certificate* issues.	Payable when entry is made.	
160	$2 50	$12 00	$12 00	$10 00	$34 00
80	2 50	6 00	6 00	5 00	17 00
40	2 50	3 00	3 00	5 00	11 00
160	1 25	6 00	6 00	10 00	22 00
80	1 25	3 00	3 00	5 00	11 00
40	1 25	1 50	1 50	5 00	8 00

Where the applicant has made actual settlement on the land he desires to enter, but is prevented by reason of bodily infirmity, distance, or other good cause, from personal attendance at the district land office, the affidavit may be made before the clerk of the court for the county within which the land is situated. In this affidavit it must be shown that the party's family or some member thereof is residing upon the land, and that a *bona fide* settlement and improvement have been made thereon. The cause of the applicant's inability to be present at the land office must be satisfactorily shown.

ADJOINING FARM HOMESTEADS.

An applicant *owning* and *residing* on an *original* farm, may enter other land lying contiguous thereto, which shall not, with such farm, exceed in the aggregate 160 acres. Thus, for example, a party owning or occupying 80 *acres* may enter 80 additional, without regard to price, whether held at $1.25 or $2.50 per acre; or, if owning 40 acres, he may enter 120 acres additional of land held at $1.25 per acre, or of land held at $2.50 per acre, where 160 acres is now the maximum quantity of double minimum land subject to homestead entry, but cannot exceed the maximum of 80 acres where the land proposed to be entered is held at $2.50 per acre, and where 80 acres is still the legal maximum in reference to that class of lands(a).

In applying for an entry of this class, the party must make affidavit, as follows, describing the tract which he owns and upon which he resides as his original farm:

AFFIDAVIT.

LAND OFFICE AT ——— ———,
(*Date*) ———, 18—.

I, ——— ———, *of* ———, having filed my application No. ——, for an entry under the provisions of the Act of Congress approved May 20, 1862, entitled, "An Act to secure homesteads to actual settlers on the public domain," do solemnly swear that ——— ———, [here state whether the applicant is the head of a family, or over twenty-one years of age; whether a citizen of the United States, or has filed his declaration of intention of becoming such, or, if under twenty-one years of age, that he has served not less than fourteen days in the Army or Navy of the United States during actual war;] that said entry is made for my own exclusive benefit, and not directly or indirectly for the benefit or use of any other person or persons whomsoever; neither have I heretofore perfected or abandoned an entry made under this act; that the land embraced in the said application No. —— is intended for an adjoining farm homestead, that I now own and reside upon, an original farm containing ——— acres, *and no more;* that the same comprises the ——— of section ———, township ———, range ———, and is contiguous to the tract this day applied for.

——— ———.

Sworn to and subscribed this ——— day of ——— before

——— ———
——— *of the Land Office.*

On compliance by the party with the foregoing requirements, relating to an original or adjoining farm homestead, the receiver will issue his receipt for the fee and that part of the commissions paid, as follows, a duplicate of which he will deliver to the party:

RECEIVER'S RECEIPT, No. ——. APPLICATION No. ——.

HOMESTEAD.

RECEIVER'S OFFICE, ——— ———,
(*Date*) ———, 18—.

Received from ——— ———, of ——— county, ———, the sum of ——— dollars and ——— cents, being the amount of fee and compensation of register and receiver for the entry of ——— of section ——— in township ———, of range ———, under section ———, Revised Statutes of the United States.

——— ———, *Receiver.*

$———.

ENTRIES UNDER LAW OF MARCH 3, 1879(a).

Any person who has under existing laws taken a homestead on any even section within the limits of any railroad or military road land grant, and who by existing laws shall have been restricted to 80 acres, may enter under the homestead laws an additional 80 acres adjoining the land embraced in his original entry, if such additional land be subject to entry, without payment of fees and commissions. The residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional entry, and shall be deducted from the five years' residence required by law, with the proviso, however, that in no case shall patent issue until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced in his additional entry at least one year.

Upon any party proposing to enter such additional tract, the Register and Receiver will require him to make homestead application and affidavit according to annexed forms:

ADDITIONAL HOMESTEAD.—ACT OF MARCH 3, 1879.

APPLICATION No. ——. LAND OFFICE AT ———,
(*Date*) ———, 18—.

I, ——— ———, of ———, do hereby apply to enter, under the act of March 3, 1879, the ——— of section ———, in township ———, of range ———, containing ——— acres, as additional to my entry No. ——, for the ——— of ———, section ———, in township ———, of range ———.

(a) General Land Office Instructions, September 1, 1879, p. 15.

LAND OFFICE AT ——,
(*Date*) ———, 18—.

I, —— ——, Register of the Land Office, do hereby certify that the above application is for surveyed lands of the class which the applicant is legally entitled to enter under the act of March 3, 1879, and that there is no prior valid adverse right to the same.

—— ——, *Register*.

ADDITIONAL HOMESTEAD.—ACT OF MARCH 3, 1879.

AFFIDAVIT.

LAND OFFICE AT ——,
(*Date*) ———, 18—.

I, —— ——, of ——, having filed my application, No. ——, for an entry under the act of March 3, 1879, do solemnly swear that [here state whether the applicant is the head of a family, or over twenty-one years of age; whether a citizen of the United States, or has filed his declaration of intention of becoming such; or, if under twenty-one years of age, that he has served not less than fourteen days in the Army or Navy of the United States during actual war]; that said application No. —— is made for my exclusive benefit; and that said entry is made for the purpose of actual settlement and cultivation, and not, directly or indirectly, for the use or benefit of any other person or persons whomsoever, and that I have not heretofore had the benefit of said act.

—— ——.

Sworn to and subscribed, this —— day of ——, before

—— ——,
Register, [*or Receiver*.]

In this class of entries the party, if still resident on the original entry tract, will not be required to remove therefrom to the additional entry tract in order to make a new residence on the latter, as the two forming one body of land, residence on either will be regarded as satisfying the legal requirement; but in making final proof on the additional entry, the party must show such residence, with occupancy and cultivation of the tract taken as additional for five years from the date of entry thereof, less the time to be deducted on account of residence and cultivation on the original entry, which shall not exceed four years in any case.

Should the person so elect he may, instead of making an additional entry, surrender his existing entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made, with the same provisions, as regards fees and commissions not being required, and requiring settlement and cultivation, occupation, and residence, as have been already stated with regard to additional entries. In case of any party electing to surrender his entry under this act, the Register and Receiver will receive his relinquishment in the usual form, which shall specify for what purpose made, and be accompanied by the duplicate receipt issued for the relinquished entry, or by a statement under oath showing a good reason for its absence.

Any party claiming the right to make an additional entry or to surrender an old and make a new one, will be required first to make affidavit that he did not serve as a soldier or sailor for ninety days during the late civil war and receive an honorable discharge from the Army or Navy; for if so, he would not be entitled to the right claimed, as the class of persons who so served and were discharged were not restricted to eighty acres under the previously existing laws, as indicated below. This affidavit may be made before any officer using a seal and authorized to administer oaths, or before the Register or Receiver of the district office.

INDIAN HOMESTEADS.

Indians who have abandoned their tribal relations and adopted the habits and pursuits of civilized life are allowed to make homestead entries. Special forms are provided in such cases.

RULINGS.

Below will be found abstracts of decisions made by the Interior Department and the General Land Office on applications to enter land under the homestead acts:

A single woman who makes an entry under the homestead laws does not forfeit her rights by marriage, provided the requirements as to settlement and cultivation are complied with(a).

A married woman deserted by her husband made a homestead entry and provided means for improving and cultivating the land embraced therein. Notwithstanding her husband's return, she will, upon making satisfactory final proof, receive the patent in her own name(b).

The marriage of a woman to a Mormon, who has a wife living from whom he is not divorced, does not make her the legal wife of such person, so as to disqualify her from entering public lands. But where such polygamous wife allows her pretended husband to control her acts, and maintains her marital relations with him, she cannot be allowed to make an entry of public lands, when the laws governing the same require that the entry must be made for the exclusive use and benefit of the applicant(a).

(a) W. H. Werdelange, *Land Owner*, Vol. 1, p. 3. (b) Ella Nelson, *Land Owner*, Vol. 1, p. 4.

An abandoned wife is regarded as the head of a family, and her rights will receive due consideration. When she and her children are still residing upon the homestead entered by her absent husband, the entry cannot be cancelled for abandonment(b).

A woman may commute her deceased husband's entry and receive a patent in her own name, and afterwards may make another homestead entry in her own right(c).

The entry of a minor, not the head of a family, is void, and does not exclude him from making a legal entry on attaining his majority(d).

Orphan children of other than deceased Union soldiers and sailors, whose widows are dead or married, cannot make homestead entries through guardians(e).

A homestead entry cannot be made for an "incompetent" person by his guardian(f).

It is no part of the duties of the registers and receivers of United States Land Offices to make out *applications* for homestead or pre-emption settlers(g).

In cases of simultaneous applications to enter under the homestead laws, the rule is as follows:

1. Where neither party has improvements on the land, it should be sold to the highest bidder.

2. Where one has actual settlement and improvements, and the other none, it should be awarded to the actual settler.

3. Where both allege settlement and improvements, an investigation must be had, and the land be awarded to him who shows the prior actual settlement and substantial improvements, so as to be notice on the ground to any competitor(h).

In case of death of homestead settler, leaving no widow or children, the legal heirs may commute or continue residence; the final papers will then be made out in the name of "the heirs." The heirs would not be debarred thereby from making each a homestead entry in his own name(i).

A party who neglects to examine the character of land entered by him under the homestead laws must suffer the consequences. He cannot be allowed to make another entry(j).

Where a homestead claimant's land has become totally valueless for farming purposes by reason of the overflow or back water of a river, he will be allowed to make another homestead entry with credit for fees and commissions. In the event of a new homestead entry, he will be required to show compliance with the law as though he had made no previous entry(k).

An application handed to the Receiver after office hours on the street, without the fee, is not a legal application(l).

Land appropriated for any public use is not subject to entry under the Homestead Laws. The appropriation of land by the Government is setting it apart for some particular use, as Congress set apart the land embraced in the Hot Springs reservation(m).

A homestead entry becomes effective only when made at the local office, and not when the affidavit is taken before a county clerk. The only benefit derived from settlement is the privilege in certain homestead cases of making the required affidavit before the county clerk(n).

(a) Lyons *vs.* Stevens, *Land Owner*, Vol. 6, p. 107.

(b) Thompson *vs.* Anderson, *Land Owner*, Vol. 6, p. 125.

(c) Adolphine Hedemsky, *Land Owner*, Vol. 2, p. 83.

(d) Thomas Thompson, *Land Owner*, Vol. 1, p. 99. M. S. Woodford, *Land Owner*, Vol. 6, p. 125. Root *vs.* Smith, *Land Owner*, Vol. 6, p. 43.

(e) J. A. Balch, *Land Owner*, Vol. 1, p. 149.

(f) W. R. Ledford, *Land Owner*, Vol. 5, p. 165.

(g) T. C. Shapleigh, *Land Owner*, Vol. 5, p. 147.

(h) Helfrich *vs.* King, *Land Owner*, Vol. 3, pp. 19, 164.

(i) R. J. Simonson, *Land Owner*, Vol. 1, p. 35.

(j) J. O. Nightingale, *Land Owner*, Vol. 4, p. 146.

(k) H. J. Johnston, *Land Owner*, Vol. 4, p. 83.

(l) Gregory *vs.* Kirtland, Copp's Public Land Laws, p. 228.

(m) Hot Springs Reservation, *Land Owner*, Vol. 2, p. 100.

(n) G. Zemmhorn, *Land Owner*, Vol. 1, p. 139.

Where notices of cancellation of entries are received at the local office after business hours, the land embraced therein is not subject to entry or filing until the usual opening hour on the following morning (a).

The right to tax lands of the United States, entered under the homestead laws, does not accrue to the State until the expiration of the period of residence and cultivation, and until the final proof required by law shall have been made and approved, and the final homestead certificate issued (b).

Land included in the claim of one person is not subject to the settlement of another, and it is not necessary to assume that such settlement was valid, as against the Government. Land that is subject to settlement must be unimproved and vacant, and not in the possession of another person (c).

After lands have been offered at public sale and then withdrawn, they may be restored to homestead and pre-emption entry. Until they have again been offered at public sale, they are not subject to private entry (d).

Where a party settled on land in the 16th or 36th section long prior to the survey thereof, but has exhausted his pre-emption privilege, he cannot, by a homestead entry, prevent the tract from passing to the state under the school grant (e).

A party cannot initiate a homestead claim to land covered by an uncancelled prior homestead entry (f).

b. RESIDENCE AND CULTIVATION.

By making an entry an inceptive right is vested in the settler, and his final title depends on his residence upon and cultivation of the land embraced in his claim. This residence and cultivation must continue *five years* unless he was a soldier or sailor in the late war (See Soldiers' and Sailors' Homesteads); or if he prefers to pay for his land, as at private entry, he may after six months' settlement and cultivation make the necessary proof. This early payment is called commuting a homestead entry. (See Final Proof and Commutation.)

The refusal of the wife to live on a homestead, provided the husband complies with the law, will not injure his rights (g).

A man and woman, after making each a homestead entry, may marry without invalidating their rights, if the law is complied with as to residence and cultivation. Either homestead may, if they choose, be commuted (h).

Where a man and woman marry after each has made a homestead entry of adjoining land, they may live in a house built on the dividing line between the two homesteads. (i)

Residence in a double house, built on a dividing line between adjoining homesteads, is residence in compliance with the law (j).

After a homesteader has completed the term of five years, a further residence is not required to entitle him to patent (k).

Residence for the period of five years from date of entry on the tract claimed is a compliance with the Homestead Law; but the question of such residence may under proper restriction be investigated at any time before issuance of patent(l).

Where a homestead claimant has failed to comply with the law in the matter of residence, he may, where he has been prevented by circumstances beyond his control, and his good faith is evident, be allowed additional time to comply therewith(m).

The homestead entry of a party who failed to establish permanent and exclusive residence on the tract until three and one-half years after date of entry, should be held in abeyance until the expiration of five years from settlement, and his case be submitted to the Board of Equitable Adjudication, established to determine in what cases patents shall issue where the law has been substantially complied with(a).

(a) George Noble, *Land Owner*, Vol. 2. p. 34.

(b) W. C. Means, *Land Owner*, Vol. 2, p. 148. George Bates, *Land Owner*, Vol. 1, p. 193 E. E. Ditman, *Land Owner*, Vol. 2, p. 113. J. H. Merritt, *Land Owner*, Vol. 5, p. 247.

(c) Lyons *vs.* Stevens, *Land Owner*, Vol. 6, p. 107.

(d) Thomas Holland, *Land Owner*, Vol. 4, p. 44.

(e) Andrew Bard, *Land Owner*, Vol. 3, p. 114.

(f) B. W. Wilson, *Land Owner*, Vol. 1, p. 124.

(g) O. A. A. Gardner, *Land Owner*, Vol. 1, p. 90.

(h) A. J. Buckland, *Land Owner*, Vol. 4, p. 107.

(i) A. C. Sowle, *et. al.*, *Land Owner*, Vol. 6, p. 93.

(j) W. S. Headlee, *Land Owner*, Vol. 1, p. 51.

(k) Joseph Fisher, *Land Owner*, Vol. 1, p. 51.

(l) Weber *vs.* Gourley, *Land Owner*, Vol. 3, p. 29

(m) Adam Lichlider, *Land Owner*, Vol. 4, p. 131.

A party who enters a homestead and attempts to acquire title thereto by going upon the land and remaining over night once or twice in six months, fails to establish a legal residence; and where it is shown that such failure to comply with the provisions of the law was not the result of ignorance or of uncontrollable circumstances, the entry should be canceled(b).

Such cases as the above should not be submitted to the Board of Equitable Adjudication. Cases going before this Board are limited to those in which the *good faith* of the claimant appears unquestionable (Ibid).

A party while having an actual residence on his claim, may work elsewhere for other people a few weeks at a time.

An entry is liable to be cancelled for failure in respect to residence, and the land given to some one else. Residence is not required on an "Adjoining Farm Homestead." There must be continued residence on the original farm, however, and use of the additional land in connection therewith.

Where a homestead settler dies before the completion of his claim, the widow, or in case of her death, the heirs, may continue settlement or cultivation, and obtain title upon proper proof at the right time. If the widow proves up, the title passes to her; if she dies before proving up, and the heirs make the proof, the title will vest in them.

Where both parents die, leaving infant children, the homestead may be sold for cash for the benefit of such children, and the purchaser will receive title from the United States; or the patent will issue to the infants on proof of settlement or cultivation for the prescribed period. The law is substantially complied with by continual cultivation for the period of five years by the heirs or devisee, personal residence not being required in their case(c).

The sale of a homestead claim by the settler to another party before completion of title is not recognized, and vests no title or equities in the purchaser. In making final proof, the settler is by law required to swear that no part of the land has been alienated, except for church, cemetery, or school purposes, or the right of way of railroads.

c. AMENDMENT.

Where a party desires to amend his homestead papers on the ground that they do not describe the tract he intended to apply for and has actually settled upon, he must with his application for amendment send to the Register and Receiver an affidavit sustained by the affidavit of two witnesses, wherein he sets forth that he had within six months from date of original application actually settled on the described tract, and give in full the character of the improvements made.

Where a party desires the cancellation of his entry on account of a prior legal claim having attached to the land so entered, he must send with his application an affidavit, corroborated as before by two witnesses, showing number, date and nature of the prior claim, and the extent of the improvements, if any, which may have been made(d).

A homestead party whose entry is cancelled in part for conflict, may retain the remainder and amend his entry to embrace a contiguous vacant tract, not to exceed the quantity in his original entry(e).

A claimant has a right to obtain the correction of a clerical error in his entry papers, misdescribing the land settled upon and cultivated(f).

(a) Thorsten Olsen, *Land Owner*, Vol. 5, p. 117.

(b) Byrne vs. Catlin, *Land Owner*, Vol. 5, p. 146.

(c) Durame vs. Towers, *Land Owner*, Vol. 2, p. 131.

(d) General Land Office Instructions, Copp's Public Land Laws, p. 239.

(e) Thomas C. Marks, Copp's Public Land Laws, p. 240.

(f) Jefferson Newcomb, *Land Owner*, Vol. 2, p. 162.

CIRCULAR IN RELATION TO CHANGES OF ENTRY.

The following circular of instructions from the General Land Office is so full and explicit that it is given at length:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *August* 8, 1878.

To Registers and Receivers of U. S. Land Offices.

GENTLEMEN: In order to secure uniformity in proceedings upon applications for Change of Entry, attention is called to the following sections of the Revised Statutes and accompanying instructions:

SECTION 2369. In every case of a purchaser of public lands, at private sale, having entered at the land office a tract different from that he intended to purchase, and being desirous of having the error in his entry corrected, he shall make his application for that purpose to the Register of the land office, and if it appears from testimony satisfactory to the Register and Receiver that an error in the entry has been made, and that the same was occasioned by original incorrect marks made by the surveyor, or by the obliteration or change of the original marks and numbers at corners of the tract of land; or that it has in any otherwise arisen from mistake or error of the surveyor, or officers of the land office, the Register and Receiver shall report the case, with the testimony, and their opinion thereon, to the Secretary of the Interior, who is authorized to direct that the purchaser is at liberty to withdraw the entry so erroneously made, and that the moneys which have been paid shall be applied in the purchase of other lands in the same district, or credited in the payment for other lands which have been purchased at the same office.

SECTION 2370. The provisions of the preceding section are declared to extend to all cases where patents have been issued, or may hereafter issue; upon condition, however, that the party concerned surrenders his patent to the Commissioner of the General Land Office, with a relinquishment of title thereon, executed in a form to be prescribed by the Secretary of the Interior.

SECTION 2371. The provisions of the two preceding sections are made applicable in all respects to errors in the location of land-warrants.

SECTION 2372. In all cases of an entry hereafter made of a tract of land not intended to be entered, by a mistake of the true numbers of the tract intended to be entered, where the tract thus erroneously entered does not in quantity exceed one-half section, and where the certificate of the original purchaser has not been assigned, or his right in any way transferred, the purchaser, or, in case of his death, the legal representatives, not being assignees or transferees, may, in any case coming within the provisions of this section, file his own affidavit, with such additional evidence as can be procured, showing the mistake of the numbers of the tract intended to be entered, and that every reasonable precaution and exertion had been used to avoid the error, with the Register and Receiver of the land district within which such tract of land is situated, who shall transmit the evidence submitted to them in each case, together with their written opinion, both as to the existence of the mistake and the credibility of each person testifying thereto, to the Commissioner of the General Land Office, who, if he be entirely satisfied that the mistake has been made, and that every reasonable precaution and exertion had been made to avoid it, is authorized to change the entry and transfer the payment from the tract erroneously entered to that intended to be entered if unsold; but if sold, to any other tract liable to entry; but the oath of the person interested shall in no case be deemed sufficient, in the absence of other corroborating testimony, to authorize such change of entry; nor shall anything herein contained affect the right of third persons.

It will be observed that section 2369 is intended to afford relief to purchasers of public lands at private sale whose errors in entries have been occasioned by the original incorrect marking by the surveyor, or by the subsequent change or obliteration of those marks, or by any other error originating either with the surveyor or the land officers.

SECTION 2370 extends the foregoing provision to cases where patents have been or may be issued.

Section 2371 extends the provisions of both the preceding sections to errors in the location of land warrants.

Section 2372, further extending these provisions, applies to all classes of entries, and also embraces cases where the error was *not* occasioned by any act of the surveyor or of the land officers, but restricts changes of entry to cases in which the tract erroneously entered does not in quantity exceed one-half section, and where the certificate of the original purchaser has not been assigned or his right in any way transferred.

Change of entry may therefore be allowed in accordance with these provisions, in respect to either of the following classes of cases, viz.:

Purchases at public sale.
Private entries.
Pre-emption entries.
Military bounty land-warrant locations.
Scrip locations, etc.

A change of entry, when allowed, will be made from the tract erroneously entered to that intended to have been entered, if vacant; but if not vacant, the change may be made to any other tract liable to entry.

APPLICATION FOR CHANGE OF ENTRY.

The application must, in all cases, be made by the party making the original entry, or, in case of his death, by his legal representatives, *not being assignees or transferees.*

The applicant must file an affidavit showing the nature and particular cause of the error, and that every reasonable and proper precaution had been used to avoid it, accompanied by the best corroborative testimony that can be procured. The oath of the party interested is not of itself sufficient.

The affidavit must also show that the land erroneously entered has not been transferred or otherwise encumbered.

This evidence, together with your joint opinion as to the existence of the mistake, and the credibility of each person testifying thereto, will be forwarded for the decision of this office.

Where a patent has not been issued, you will require the surrender of the duplicate receipt, or certificate of location (as the case may be), accompanied by the affidavit of the party that he has not sold, assigned, nor in any way encumbered the title to the land described in the application, and that said title has not become a matter of record.

Where a patent has issued it must be surrendered.

Where the title has become a matter of record, and in all cases where patent has issued, you will require a quit claim deed, or release, to the United States, which deed must be executed, acknowledged, and recorded in accordance with the laws of the State or Territory in which the land is situated. You will also require a certificate from the county clerk, or other officer having charge of the books in which any conveyance of the land is required to be recorded to give it validity, stating that the records of such office do not exhibit any conveyance or other encumbrance of the land in question. In the case of a married man, a properly executed release of dower by the wife must be furnished.

WHEN CHANGE OF ENTRY IS ALLOWED.

In all cases of application for a change of entry, when the evidence is satisfactory, a new Register's certificate will be *authorized by this office*, which certificate will bear the current number and date, and will be indorsed with the authority for such change.

The tract to which the change is allowed, its area, etc., will be reported on the proper monthly abstracts, with a noting in *red ink* of the items credited from the old certificate and not included in the footings.

Any excess over an original amount will be accounted for as in case of other excesses.

Very respectfully,

J. A. WILLIAMSON, *Commissioner.*

Approved: C. SCHURZ, *Secretary.*

d. FINAL PROOF AND COMMUTATION.

The law is explicit in requiring final proof of the settler's compliance with the law to be made within *two years* after the expiration of the five years of settlement and cultivation.

Any settler desiring to make final proof must first file with the Register of the proper land office a written notice of his intention to do so. Such notice must describe the land claimed, and the claimant must give the names and post office addresses of the witnesses by whom the necessary facts as to settlement, residence, cultivation, etc., are to be established.

NOTICE OF INTENTION.

LAND OFFICE AT ——,
(*Date*) ——, 18—.

I, —— ——, of ——, who made Homestead Application No. —— (or Pre-emption Declaratory Statement No. ——) for the [here describe the land], do hereby give notice of my intention to make final proof to establish my claim to the land above described, and that I expect to prove my claim by the following witnesses, viz: —— ——, of ——, and —— ——, of ——.

—— ——.

LAND OFFICE AT ——,
(*Date*) ——, 18—.

Notice of the above application will be published in the —— published at ——, which I hereby designate as the newspaper published nearest the land described in said application.

—— ——, *Register*.

The filing of such notice must be accompanied by a deposit of sufficient money to pay the cost of publishing the notice to be given by the Register; though the party is allowed to make a contract with the publisher of the designated newspaper, and so need not deposit the money with the land officers(*).

Upon the filing of the notice by the applicant, the Register shall publish a notice of such application once each week for a period of thirty days, in a newspaper which he shall designate, by an order written on said application, as published nearest the land described in the application, and he shall also post the notice in some conspicuous place in his office for the same period. A compliance with the law will require the notice to be published weekly five times, because four weekly publications would not cover a period of thirty days.

The notice to be given by the Register must state that application to make final proof has been filed; the name of the applicant; the kind of entry, whether homestead or pre-emption; a description of the land, and the names and residences of the witnesses as stated in the application.

NOTICE FOR PUBLICATION.

LAND OFFICE AT ——,
(*Date*) ——, 18—.

Notice is hereby given that the following-named settler has filed notice of his intention to make final proof in support of his claim and secure final entry thereof at the expiration of thirty days from the date of this notice, viz: —— ——, Homestead Application No. ——, (or Pre-emption Declaratory Statement No. ——,) for the [here describe the land], and he names the following as his witnesses, viz: —— ——, of ——, and —— ——, of ——.

—— ——, *Register*.

To save expense, the Register may embrace two or more cases in one publication, when it can be done consistently with the legal requirements of publication, in a newspaper published nearest the land, as per attached form.

CONSOLIDATED NOTICE FOR PUBLICATION.

LAND OFFICE AT ——,
(*Date*) ——, 18—.

Notice is hereby given that the following-named settlers have filed notice of intention to make final proof in support of their claims and secure final entry thereof on the expiration of thirty days from the date of this notice, viz:

—— ——, Homestead Application No. ——, for the ——. The claimant names the following persons as his witnesses to prove his claim: —— ——, of ——, and —— ——, of ——.

—— ——, Pre-emption Declaratory Statement No. ——, for the ——. The claimant names the following persons as his witnesses to prove his claim: —— ——, of ——, and —— ——, of ——.

—— ——, *Register*.

The proof that requisite notice has been given will be the certificate of the Register that the notice of the application (a copy of which should be annexed to the certificate) was posted by him in a conspicuous place in his office for a period of thirty days; and the affidavit of the publisher or foreman of the newspaper that the notice (a copy of which notice must be

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(*) *Land Owner*, Vol. 6, p. 93.

annexed to the affidavit) was published in said newspaper once each week for five successive weeks.

CERTIFICATE AS TO THE POSTING OF NOTICE.

LAND OFFICE AT ——,
(*Date*) ——, 18—.

I, —— ——, Register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of thirty days, I having first posted said notice on the —— day of ——, 18—.

—— ——, *Register.*

PROOF OF PUBLICATION.

(COPY OF NOTICE.) —— of ——, }
county of ——, } ss, ——, being duly sworn, deposes and says that he is the —— of the ——, a newspaper published at ——, in —— county, in the —— of ——; that the notice of the intention of —— —— (and ——) to make final homestead proof, a copy of which is hereto attached, was first published in said newspaper in its issue dated the —— of ——, 188—, and was published in each weekly issue of said newspaper thereafter for the full period of thirty days, the last publication thereof being in the issue dated the —— of ——, 188—.

—— ——.

Subscribed and sworn to before me this —— day of ——, A. D., 188—.
[Seal.]

—— ——, *Notary Public.*

In making final proof, the homestead party may appear in person at the district land office, with his witnesses, and there make the affidavit and proof required in support of his claim; or he may appear with his witnesses before the judge of a court of record of the county and State, or district and Territory, in which the land is situated, and there make the final proof required, as follows, which proof, duly authenticated by the court seal, is required to be transmitted by the judge, or the clerk of the court, to the Register and Receiver, together with the fee and charges allowed by law.

HOMESTEAD PROOF.

FINAL AFFIDAVIT REQUIRED OF HOMESTEAD CLAIMANTS.

I, —— ——, having made a homestead entry of the —— section No. ——, in township No. ——, of range No. ——, subject to entry at ——, under section No. 2289 of the Revised Statutes of the United States, do now apply to perfect my claim thereto by virtue of section No. 2291 of the Revised Statutes of the United States; and for that purpose do solemnly —— that I am a citizen of the United States; that I have made actual settlement upon and have cultivated said land, having resided thereon since the —— day of ——, 18—, to the present time; that no part of said land has been alienated, except as provided in section 2288 of the Revised Statutes, but that I am the sole *bona fide* owner as an actual settler; that I will bear true allegiance to the Government of the United States; and further, that I have not heretofore perfected or abandoned an entry made under the Homestead Laws of the United States.

—— ——.

I, —— ——, of the land office at ——, do hereby certify that the above affidavit was subscribed and sworn to before me this —— day of ——, 18—.

—— ——.

HOMESTEAD PROOF.

(This form will be used both in final homestead proof and commutation proof.)

TESTIMONY OF CLAIMANT.

—— ——, being called as a witness in —— own behalf in support for —— homestead entry fo ——, testifies as follows:

Ques. 1. What is your name? (Be careful to give it in full, correctly spelled, in order that it may be here written exactly as you wish it written in the patent which you desire to obtain.)
Ans. ——.

Ques. 2. What is your age?
Ans. ——.

Ques. 3. Are you the head of a family, or a single person; and, if the head of a family, of whom does your family consist?
Ans. ——

Ques. 4. Are you a native-born citizen of the United States? If not, have you declared your intention to become a citizen, and have you obtained a certificate of naturalization(*)?
Ans. ——.

Ques. 5. Are there any indications of coal, salines, or minerals of any kind on the land embraced in your homestead entry above described? (If so, state what they are, and whether the springs or mineral deposits are valuable?)
Ans. ——.

Ques. 6. Is the land more valuable for agricultural than mineral purposes?
Ans. ——.

Ques. 7. What is your post office address?
Ans. ——.

NOTE.—At the time of making proof the party should be required to surrender his original homestead duplicate receipt, or file an affidavit accounting for the same.

(*) In case the party has been naturalized, a certified copy of his certificate of naturalization must be furnished. In cases of commuted homesteads it is sufficient if the party has declared his intention to become a citizen, in which case a certified copy of his declaration of intention must be furnished.

Ques. 8. Have you ever made a homestead entry except for this land? No. ——; (If you have, give, as nearly as you can, the date thereof and description of the land, and state whether the entry still subsists, or, if it has been cancelled, state the cause of its cancellation.)
Ans. ———.

Ques. 9. Have you sold the land or conveyed to any one your right and interest in the same; and, if so, to whom and for what purpose?
Ans. ———.

Ques. 10. Does any one except yourself claim the land under the homestead or pre-emption laws?
Ans. ———.

Ques. 11. When did you first make settlement on the said land?
Ans. ———.

Ques. 12. When did you first establish a residence upon the land?
Ans. ———.

Ques. 13. At the date you have given as being the date that you first established your residence upon the land, did you move thereon in person?
Ans. ———.

Ques. 14. Up to what time have you resided on the land?
Ans. ———.

Ques. 15. Was your residence upon the land continuous during the period named?
Ans. ———.

Ques. 16. If you had a family during said period of residence on the homestead, did your family reside thereon?
Ans. ———.

Ques. 17. What improvements have you made or do you possess on the land? (Describe them.)
Ans. ———.

Ques. 18. When was your house built?
Ans. ———.

Ques. 19. What is the total value of said improvements?
Ans. ———.

Ques. 20. For what purpose have you used the land?
Ans. ———.

Ques. 21. How much of the land have you broken and cultivated, and what crops, if any, have you raised?
Ans. ———.

I HEREBY CERTIFY that each question and answer in the foregoing testimony was read to the claimant ——— ———, before —— signed —— name thereto, and that the same was subscribed and sworn to before me this ——— day of ———, 18—.

——— ———,
——— ———.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. [See § 1750.

HOMESTEAD PROOF.

[The testimony of two witnesses, in this form, taken separately, required in each case. This form will be used both in final homestead proof and commutation proof.]

TESTIMONY OF WITNESS.

——— ———, being called as a witness in support of the homestead entry of ——— ——— for ———, testifies as follows:

Ques. 1. What is your post-office address?
Ans. ———.

Ques. 2. What is your occupation?
Ans. ———.

Ques. 3. Are you well acquainted with ——— ———, the claimant in this case, and how long have you known ——?
Ans. ———.

Ques. 4. How old do you know or believe claimant to be?
Ans. ———.

Ques. 5. Is claimant the head of a family, or a single person; and, if the head of a family, of whom does the family consist?
Ans. ———.

Ques. 6. Is claimant a native-born citizen of the United States? If not, what steps has —— taken to become a citizen? (State your knowledge in this regard.)
Ans. ———.

Ques. 7. Has claimant been an inhabitant of the land above described?
Ans. ———.

Ques. 8. Do you live in the vicinity of the land, and are you acquainted with the same?
Ans. ———.

Ques. 9. Are there any indications of coal, salines, or minerals of any kind, on this land? (If so, state what they are, and whether the springs or mineral deposits are valuable.)
Ans. ———.

Ques. 10. Is the land more valuable for agricultural than mineral purposes?
Ans. ———.

Ques. 11. When did claimant first make settlement on the land?
Ans. ———.

Ques. 12. When did claimant establish a residence upon the land?
Ans. ——.
Ques. 13. Up to what time has claimant resided upon the land?
Ans. ——.
Ques. 14. Has —— residence been continuous during the period named?
Ans. ——.
Ques. 15. If claimant had a family during said period of residence, did the family reside on the land?
Ans. ——.
Ques. 16. When was the claimant's house built upon the land?
Ans. ——.
Ques. 17. What other improvements have been made on the land?
Ans. ——.
Ques. 18. What is the total value of the improvements?
Ans. ——.
Ques. 19. For what purpose has the land been used by claimant?
Ans. ——.
Ques. 20. How much of the land has been broken and cultivated, and what crops, if any, have been raised?
Ans. ——.
Ques. 21. Has claimant made a homestead entry for other land than that above described? (State your knowledge in this regard.)
Ans. ——.
Ques. 22. Has claimant alienated any portion of the land—that is, conveyed it to some one else—and if so, to whom and for what purpose? (State your knowledge in this regard.)
Ans. ——.
Ques. 23. Is it your belief that —— ——, the claimant, has acted in good faith in the settlement and improvement of the said land as a homestead? Have you any knowledge to the contrary?
Ans. ——.
Ques. 24, Are you interested in his claim?
Ans. ——.

—— ——,

I HEREBY CERTIFY that witness is a person of respectability; that each question and answer in the foregoing testimony was read to —— before —— signed —— name thereto; and that the same was subscribed and sworn to before me this ——day of ——, 18—.

—— ——,
—— ——.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, wilfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. [See § 1750.]

The Receiver will thereupon, if the proof is satisfactory, issue his receipt, as follows, a duplicate being sent or given to the claimant:

FINAL RECEIVER'S RECEIPT, No. ——. APPLICATION No. ——,

HOMESTEAD.

RECEIVER'S OFFICE, —— ——,
(*Date*) ——, 18—.

Received from ——, of —— county, ——, the sum of —— dollars and —— cents, being the balance of payment required by law for the entry of the —— of section ——, in township ——, of range ——, containing —— acres, under section —— of the Revised Statutes of the United States.

$——. —— ——, *Receiver*.

The judge being absent in any case, the proof may be made before the clerk of the proper court. The fact of the absence of the judge must be certified in the papers by the clerk acting in his place.

If the land in any case is situated in an unorganized county, the statute provides that the party may proceed to make the proof in the manner indicated in any adjacent county in the State or Territory. The fact that the county in which the land lies is unorganized, and that the county in which the proof is made is adjacent thereto, must be certified by the officer.

In any case where the final proof shall be transmitted to the Register and Receiver, as contemplated in this act, and the full amount of money due shall be paid, they will carefully examine the proof, and, if any objection appears, they will promptly notify the party and advise him of his rights in the matter.

In cases in which final homestead proof is made before the judge, or in his absence before the clerk of a court of record, the Register and Receiver of the district land office are entitled to the same fee for examining and approving the proof so made as if the proof were taken and reduced to writing by them, for the claimants, viz., fifteen cents per hundred words, and on the Pacific Coast, twenty-two and one-half cents per hundred words(a).

In the Act of Congress of March 3, 1877, which provides that final proof in homestead entries may be made before the judge, or, in his absence, before the clerk of any court of record of the county and State, or district and Territory, in which the lands are situated; the terms "in his absence," refer to the absence of the judge from the county seat or place where the court for the county is held. Where the clerk takes the proof, he should set forth in his certificate to the papers that the case was such as to authorize him to do so under the act; and for this, it will be sufficient for him to certify that the proof was made before him "in the absence of the judge," using the language of the statute(b).

County courts in Florida are courts of record, and the judges and clerks of such courts are qualified to take final proof in homestead cases(c).

ADJOINING FARM ENTRIES.

The proceedings in this class of cases are the same as in other homestead entries. It is not required that the applicant should prove actual residence on the separate tract entered; but if he does not, it must appear from the proof adduced (the forms previously given being modified to suit the circumstances of the case), that he has continued for the period required by law to reside upon and cultivate the original farm tract, making use of the entered tract as a part of the homestead.

FINAL AFFIDAVIT REQUIRED OF ADJOINING FARM HOMESTEAD CLAIMANTS.

I, —— ——, having made a homestead entry of the —— section No. ——, in township No. ——, of range No. ——, subject to entry at ——, for the use of an adjoining farm owned and occupied by me on the —— of section No. ——, in township No. ——, of range No. ——, under section 2289 of the Revised Statutes, do now apply to perfect my claim thereto by virtue of section No. 2291 of the same, and for that purpose do solemnly —— that I am a citizen of the United States; that I have continued to own and occupy the land constituting my original farm, having resided thereon since the —— day of ——, 18—, to the present time, and have made use of the said entered tract as a part of my homestead, and have improved the same in the following manner, viz.: ——. That no part of said land has been alienated, but that I am the sole *bona fide* owner as an actual settler; that I will bear true allegiance to the Government of the United States; and, further, that I have not heretofore perfected or abandoned an entry under the homestead laws.

—— ——.

I, —— ——, of the land office at ——, do hereby certify that the above affidavit was taken and subscribed before me this —— day of ——, 18—.

—— ——.

Where it is shown that a homestead entry was made for the use of an adjoining farm, by a party who owns only a half undivided interest in an original farm, such homestead entry will be passed for patenting if the law has been complied with in other respects(d).

COMMUTATION OF HOMESTEAD ENTRIES.

If the homestead settler does not wish to remain five years on his tract, the law permits him to pay for it with cash, or warrants, or agricultural-college scrip, upon making proof of settlement and cultivation for a period of not less than six months from the date of entry to the time of payment; or payment may now be made with private-claim scrip under the act of January 28, 1879.

This proof of actual settlement and cultivation must be the affidavit of the party, made before the district officers, in addition to the testimony usual in making final homestead proof, with a few verbal changes.

Published notice as usual must be given prior to taking the final proof.

AFFIDAVIT.

I, —— ——, claiming the right to commute, under section 2301 of the Revised Statutes of the United States, my homestead entry No. ——, made upon the —— section ——, township ——, range ——, do solemnly swear that I made settlement upon said land on the —— day of ——, 18—, and that since such date, to wit: on the —— day of ——, 18—, I have built a house on said land, and have continued to reside therein up to the present time; that I have broken and cultivated —— acres of said land, and that no part of said land has been alienated, except as provided in section 2288 of the Revised Statutes, but that I am the sole *bona fide* owner as an actual settler.

(a) Instructions, *Land Owner*, Vol. 4, p. 162. (b) W. S. Search, *Land Owner*, Vol. 4, p. 161.

(c) Instructions, *Land Owner*, Vol. 4, p. 179. (d) Douglas Dummett, *Land Owner*, Vol. 2, p. 181.

I further swear that I have not heretofore perfected or abandoned an entry made under the homestead laws of the United States.

—— ——

Subscribed and sworn to before me this —— day of ——,

LAND OFFICE, ——,

—— ——, *Register.*

Any person should be allowed to commute who, at the time application to commute is made, is the proper party entitled to make final proof at the right time, provided the claim so far as it has progressed is valid(a).

After a homestead has been relinquished in part, the balance may be commuted(b).

Where a party commutes his homestead to cash, his rights under the pre-emption law are not affected, *i. e.*, he may, if qualified, make an entry under the pre-emption law(c).

WHO SHALL MAKE FINAL PROOF.

As many cases arise wherein it is difficult to decide who shall make the final proof, the following rulings of the Land Department are appended:

In case of death of an unmarried homestead settler prior to expiration of the five years, his heirs or devisee may commute or continue cultivation and settlement.

If death occurred after the expiration of the five years, the heirs or devisee may at once make proof.

In these cases patent would issue in the name of "the heirs" of deceased, or in the name of his devisee(d).

A deserted wife cannot contest her husband's entry for abandonment while the marriage remains legally valid. A married woman cannot become entitled to credit on a homestead for her husband's military services during the late war(e).

Where a deceased homestead claimant left a wife from whom he had been separated by written articles of agreement, such widow is the proper party to make final proof, notwithstanding the fact that the deceased claimant willed all his estate, both real and personal, to his brother(f).

Where a patent, erroneously issued to a deceased person, has been recorded in the county records, the legal representatives must release all their right and title to the land before the General Land Office can issue another patent in the name of the widow(g).

Aliens who have not declared their intentions to become citizens of the United States cannot, as heirs, perfect title to homesteads(h).

The General Land Office can recognize a nuncupative will only after it has been duly probated and accepted by the proper court(i).

In case the homestead party died, and his widow was convicted of his murder by poison, for which she is now imprisoned in the penitentiary, pursuant to law, although under a death sentence, the administrator of the deceased party should make the final proof, and the patent be issued in the name of his minor children(j).

Where a homesteader is prevented from making final proof by reason of being confined in the penitentiary, a legally appointed person may make such proof, and if found satisfactory, the patent will issue in the name of the party so deprived of his liberty(k).

A party erroneously believing himself a citizen made a homestead entry and thereafter declared his intention to become a citizen; *held*, that his entry should not be canceled, but if the final proof should be in other respects satisfactory, final certificate may be issued(l).

A Receiver of a land office, is entitled to make final proof on a homestead entry made by him prior to his appointment.

A Receiver of a land office, who has made final proof upon a homestead entry made by him prior to his appointment as Receiver, may make an additional entry under the provisions of the act of June 8, 1872(a).

(a) John Dillon, Copp's Public Land Laws, p. 245.

(b) John L. Gray, *Land Owner*, Vol. 6, p. 153.

(c) Instructions, *Land Owner*, Vol. 3, p. 70.

(d) A. F. Hubbell, Copp's Public Land Laws, p. 246.

(e) Keziah Card, *Land Owner*, Vol. 2, p. 50.

(f) John Rhoades, *Land Owner*, Vol. 5, p. 117.

(g) Andrew Johannesen, *Land Owner*, Vol. 4, p. 108.

(h) J. U. Sprenger, *Land Owner*, Vol. 2, p. 57.

(i) Elizabeth Lampson, *Land Owner*, Vol. 3, p. 178.

(j) Land Office Instructions, *Land Owner*, Vol. 5, p. 179.

(k) E. Strickland, *Land Owner* Vol. 2, p. 80.

(l) Christian Hay, *Land Owner*, Vol. 4, p. 107.

A contest for abandonment of an additional entry made under the act of June 8, 1872, will not be entertained (Ib).

The possession of an executor or administrator is, under the homestead law, the possession of the heirs or devisee, subject to the right of administration vested in the officer, and time allowed by the court for the settlement of the estate must be counted for the heirs or devisee in making final proof(b).

Mary Latt made a homestead entry, then married J. M. Johnson and died, leaving no heirs except Johnson. He was allowed to make final proof, and patent issued in name of Mary Johnson, formerly Mary Latt(c).

The wife of a homestead claimant under duress in the state penitentiary may make final proof in her husband's name. The question of her rights to the property will then be one for the courts to determine(d).

e. ABANDONMENT.

At any time after six months from entry and before the expiration of the required five years of residence, if it is proved to the satisfaction of the Land Department that the settler has changed his residence or abandoned the land embraced in his entry for more than six months at any time, such entry will be canceled and the land revert to the government. A homestead claimant elected to a public office which compels him to leave his land to discharge its duties, is not considered as changing his residence or abandoning his land, if he keeps up his improvements and the circumstances show his good faith in maintaining his residence. Abandonment or change of residence is the only cause for which a homestead entry can be attacked prior to the end of the required five years of residence and cultivation(e).

Where application is made to contest a homestead entry on the ground of abandonment, the party must file his affidavit with the district land officers, setting forth the facts on which his application is founded, describing the tract, and giving the name of the settler.

Upon this the officers will set apart a day for a hearing, giving all the parties in interest due notice of the time and place of trial.

Personal notice must be served by a disinterested party, and a copy must be filed, with an affidavit that the notice has been legally served(f).

In cases of inability to make personal service of the notice, and when it becomes necessary to serve it by publication, it must be printed in some newspaper printed in the county where the land in contest lies; and if no newspaper is printed in such county, then in the newspaper printed in the county nearest to the land.

At least two witnesses are required to prove abandonment and their testimony must be clear and positive(f).

The expenses incident to such a contest must be defrayed by the contestant, and no entry of the land can be made until the district officers have received notice from the General Land Office of the cancellation of the contested entry; nor does an informant obtain any privileges thereby. Such person must, if he desires the land, ascertain by proper diligence, when notice of cancellation is received by the Register and Receiver, and *then* make formal written application for the tract; the land, after reception by these officers of notice of cancellation, being always open to the *first legal applicant*, unless withdrawn from entry by competent authority. The preference right of a *bona fide* settler on the land is now recognized. (g)

(a) White vs. Laffery, *Land Owner*, Vol. 1, p. 114.

(b) Dorame vs. Towers, *Land Owner*, Vol. 2, p. 131.

(c) Mary Latt, *Land Owner*, Vol. 4, p. 103.

(d) Hanson vs. Geiger, *Land Owner*, Vol. 4, p. 146.

(e) Snyder vs. Abbott, Copp's Public Land Laws, p. 258.

(f) General Land Office Instructions. Copp's Public Land Laws, p. 249.

(g) Prior vs. Hughes *Land Owner*, Vol. 6, p. 51. Atherton vs. Fowler, 96 Otto 513. Hosmer vs. Wallace, 97 Otto 575. Instructions, *Land Owner*, Vol 6, p. 92.

AFFIDAVIT TO BE FILED BEFORE CONTEST.

U. S. LAND OFFICE, ——— —
———, 18—.
} PERSONALLY appeared before me ——— ——— of the Land Office,

——— ——— of ——— county, State of ———, who upon his oath says: That he is well acquainted with the tract of land embraced in the homestead entry of ——— ———, No. ——, made ———, 18—, ——— ——— and knows the present condition of the same; also that the said ——— ——— has wholly abandoned said tract, and changed his residence therefrom for more than six months since making said entry, and next prior to the date herein; that said tract is not settled upon and cultivated by said party as required by law—and this the said contestant is ready to prove at such time and place as may be named by the Register and Receiver for a hearing in said case; and he therefore asks to be allowed to prove said allegations, and that said homestead entry, No. ——, may be declared canceled and forfeited to the United States—he, the said contestant, paying the expenses of such hearing.

——— ———.

Sworn to and subscribed this day and year above written before

——— ———, *Register*.
——— ———, *Receiver*.

TESTIMONY IN CASES OF ABANDONMENT.

U. S. LAND OFFICE, ———
——— ——, 18—.
} TESTIMONY in case of ——— ———,
Contestant, *vs.* ——— ———,
Homestead Entry No. ——, ——— ———, ———————, ——— ——— contested
(Date.) (Description.)

——— ———, being duly sworn, deposes and says: That I reside in township ———, R. ———, State of ———; that I am well acquainted with the ——— ——— of section ———, township ———, range ———, entered by ——— ——— as above, and know from personal observation that the said ——— ——— has not cleared, fenced, cultivated, built or resided upon, or in any way improved said tract, since ——— ———

The present condition of said tract is ———

The present residence of the said ——— ——— is ———

——— ———.

Sworn and subscribed before me this ——— day of ———, 18—.

——— ———, *Register*.
——— ———, *Receiver*.

Also appeared at the same time and place ——— ——— and ——— ———, who, being duly sworn, depose and say: That they reside in the immediate vicinity of the aforesaid tract, and know the condition of the same; that they are also acquainted with the facts set forth in the aforesaid testimony of ——— ———, and know from personal observation that the statements therein made are true.

——— ———,
——— ———.

Sworn and subscribed before me this ——— day of ———, 18—.

——— ———, *Register*.
——— ———, *Receiver*.

RULINGS.

Where a homestead party has been duly notified and makes default, affidavits showing his abandonment may be taken before any officer authorized to administer oaths, and will be considered in deciding the case(a).

Contest for abandonment may be instituted against the entry of a deceased homestead claimant, if the abandonment and change of residence occurred more than six months prior to decease(b).

At a hearing to determine abandonment in case of deceased homestead claimants, a certified copy of the will and other matters connected therewith may be introduced(c).

The heirs or devisees of a deceased homestead claimant cannot be held responsible for the failure of a public officer to administer upon the estate. The statute does not run against the heirs during the time which elapses after the death of the claimant, and the date the administrator takes charge of the estate, providing the heirs are without notice of their rights, and the estate is administered upon within seven years(d).

An abandoned wife is regarded as the head of a family, and her rights will receive due consideration. When she and her children are still residing upon the homestead entered by her absent husband, the entry cannot be cancelled for abandonment(e).

A party, subsequent to entry, contracted to convey the tract to another after receiving patent.

Held, that as the contract was verbal and no possession was taken under it, it cannot, under the statute of frauds, be enforced against the claimant; that the facts do not show an alienation of the land; and as an entry cannot be attacked by a stranger in interest except upon a charge of *abandonment* or *change of residence*, the party should be allowed to perfect his claim(a).

(a) Instructions, *Land Owner*, Vol. 6, p. 153.
(b) W. H. Harris, *Land Owner*, Vol. 3, p. 3.
(c) Dorame vs. Towers, *Land Owner*, Vol. 2, p. 131.
(d) Robinson vs. William, *Land Owner*, Vol. 4, p. 29.
(e) Thompson vs. Anderson, *Land Owner*, Vol. 6, p. 125.

Upon proper evidence of a homestead claimant's insanity being presented, his homestead entry will not be contested on ground of abandonment. A guardian in such cases should be appointed by the proper court, who will, on presenting acceptable final proof, receive patent in name of the insane claimant(b).

Where a homestead claimant whose entry is sought to be canceled for abandonment, is in the penitentiary under sentence of imprisonment for a term of years, notice of contest must be served personally upon the claimant(c).

Where the evidence in a contest for abandonment shows that the homestead claimant is a poor man, that he was residing upon the land at date of trial, but had been unable to make his residence thereon within six months after entry at the land office, or to improve the land to any great extent, such contest will be dismissed in view of the good faith of the claimant, and when final proof is made it will be submitted to the Board of Equitable Adjudication(d).

The decision of the Commissioner of the General Land Office, in a contest from which no appeal was taken, becomes final between the parties as to all the matters arising before the trial(e).

The attacking party has a right to contest an entry in a new proceeding for abandonment or change of residence subsequent to the date of the former trials(*ib*).

No other questions than those of abandonment or change of residence can in any case be considered(*ib*).

A contestant who has been twice defeated should be held to a strict statement of his claim(*ib*).

A statement that the homestead party (who is a widow), does not occupy the land claimed as a homestead, but that the same is occupied and used by her son (who is a married man), and who has the sole and undisputed control of the same, is held insufficient to warrant the canceling of her entry(*ib*).

f. RELINQUISHMENT.

A party may relinquish his claim, but on his doing so, the land reverts to the government. The party so desiring should surrender to the Register and Receiver of the proper land district the duplicate receipt issued for the entry, with his written relinquishment of the same indorsed thereon.

If the duplicate receipt has been lost, he should submit to those officers a written relinquishment of the entry, in which he should state the fact of the loss of the duplicate receipt, and which should be duly signed and acknowledged before the Register or Receiver, or some officer authorized to take acknowledgements.

As the law allows but one homestead privilege, a settler relinquishing or abandoning his claim cannot thereafter make a second entry; but where an entry is canceled as invalid for some reason other than abandonment, and not the willful act of the party, he is not thereby debarred from entering again, if in other respects entitled, and may be allowed credit for fees and commissions already paid, on a new homestead entry.

The relinquishment of a homestead entry must be the free and voluntary act of the claimant(f).

Where a patent erroneously issued to a deceased person, has been recorded in the county records, the legal representatives must release all their right and title to the land before the General Land Office can issue another patent in the name of the widow(g).

A person making a homestead entry cannot be allowed to relinquish it and make another, because he found the land different from what he expected(h).

(a) Beasore *vs.* Whitehead, *Land Owner*, Vol. 2, p. 63.

(b) George Hornick, Copp's Public Land Laws, p. 253.

(c) Alex. McKiver, *Land Owner*, Vol. 2, p. 148.

(d) Weber *vs.* Gourley, *Land Owner*, Vol. 3, p. 29.

(e) Jones *vs.* Roberts, Copp's Public Land Laws, p. 251.

(f) Hanson *vs.* Geiger, *Land Owner*, Vol. 4, p. 146.

(g) Andrew Johannesen, *Land Owner*, Vol. 4, p. 108.

(h) John Nunan, *Land Owner*, Vol. 1, p. 34.

Should it appear upon a proper showing that swamp land to which a State is entitled has been embraced in a homestead entry, said entry will be canceled, and the party may make another entry, with the first payments to his credit(*ib*).

An administrator or guardian cannot relinquish the homestead entry of a deceased person without authority from the Probate Court(a).

The administrator of the estate of a party who died intestate should not be allowed to relinquish the homestead entry, but a relinquishment to be accepted must be made by each and every one of the heirs(b).

The following instructions were issued by the General Land Office, relative to deceased claimants whose representatives desired to relinquish the unperfected entries:

In case of George H. Hudson, reported in Copp's *Land Owner*, Vol. 2, p. 99, the deceased left no widow, nor any children; he died testate, naming William H. Hudson his executor, and one Mary Emily Hudson, an unmarried woman of full age, his sole legatee, and the original duplicate receipt cannot be found.

The cancellation desired will be made upon the written relinquishment of the legatee (which should describe the land by its proper numbers, and specify date and number of the entry,) accompanied by an affidavit which may be made either by the legatee or the executor, setting forth the loss of the duplicate Receiver's receipt.

Proof must accompany the relinquishment establishing the fact that Hudson, the deceased, left no widow or minor children, and that Mary Emily Hudson is the sole legatee, and the identical person named in the will.

This may be done by furnishing a duly attested copy of the will under the seal of the proper court, together with the certificate under seal of the judge or clerk having probate jurisdiction, as to the identity of the person of the legatee, and the fact that no widow or minor children survive.

If the records of the Probate Court do not evidence the identity of the legatee or the fact of non-survivor, then these facts may be established by the affidavit of the legatee, corroborated by the affidavits of any two witnesses who may have cognizance of the facts.

In case of Achille Savoie, reported in Copp's *Land Owner*, Vol. 4, p. 51, the papers sent up show the appointment of Monnier as administrator of the "succession of Achille Savoie, deceased," and the loss of the duplicate homestead receipt.

The party to the homestead entry stated in his homestead affidavit that he was "the head of a family."

If he left a widow, a relinquishment to be accepted must be executed by her.

If the party left no widow, but left an infant child or children, the entry may be relinquished by the administrator, executor or guardian *by order of the Probate Court having jurisdiction*, in which case it should be clearly shown that no widow was left, and that the relinquishment is made by such *order*.

If he left no widow or infant child, the relinquishment may be made by the party or parties recognized by the local court as the sole and only legal representative or representatives of the deceased, in which case a certificate to that effect by said court should be forwarded with the relinquishment duly executed(c).

II. Soldiers' and Sailors' Homesteads.

a. ORIGINAL ENTRIES.

The Revised Statutes of the United States granting homesteads to soldiers and sailors, their widows and orphan children, are the following:

SECTION 2304. Every private soldier and officer who has served in the Army of the United States during the recent rebellion, for ninety days, and who was honorably discharged, and has remained loyal to the government, including the troops mustered into the service of the

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(a) Susan W. Carter, *Land Owner*, Vol. 2, p. 99.

(b) General Land Office Instructions, *Land Owner*, Vol. 5, p. 165.

(c) See Clinthya Gibson, *Land Owner*, Vol. 3, p. 114, and Susan W. Carter, *Land Owner*, Vol. 2, p. 99.

United States by virtue of the third section of an act approved February thirteen, eighteen hundred and sixty-two, and every seaman, marine, and officer who has served in the Navy of the United States, or in the Marine Corps, during the rebellion, for ninety days, and who was honorably discharged, and has remained loyal to the government, shall, on compliance with the provisions of this chapter, as hereinafter modified, be entitled to enter upon and receive patent for a quantity of public lands not exceeding one hundred and sixty acres, or one quarter-section, to be taken in compact form, according to legal subdivisions, including the alternate reserved sections of public land along the line of any railroad or other public work not otherwise reserved or appropriated, and other lands subject to entry under the Homestead Laws of the United States; but such homestead settler shall be allowed six months after locating his homestead, and filing his declaratory statement, within which to make his entry and commence his settlement and improvement.

SECTION 2305. The time which the homestead settler has served in the Army, Navy, or Marine Corps, shall be deducted from the time heretofore required to perfect title; or if discharged on account of wounds received or disability incurred in the line of duty, then the term of enlistment shall be deducted from the time heretofore required to perfect title, without reference to the length of time he may have served; but no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements.

SECTION 2307. In case of the death of any person who would be entitled to a homestead under the provisions of section twenty-three hundred and four, his widow, if unmarried, or in case of her death or marriage, then his minor orphan children, by a guardian duly appointed and officially accredited at the Department of the Interior, shall be entitled to all the benefits enumerated in this chapter, subject to all the provisions as to settlement and improvement therein contained; but if such person died during his term of enlistment, the whole term of his enlistment shall be deducted from the time heretofore required to perfect the title.

The advantages this law presents over the general homestead law are: 1. The privilege of filing a declaration with the Register and Receiver, which will hold a tract, selected in person or by an agent, for six months without entry, residence or cultivation. 2. The right of making final proof before the end of the usual five years. Except where the claimant wishes to sell his land, the latter privilege is a disadvantage, because as soon as title passes from the United States to an individual, the real estate becomes subject to taxation. Soldiers and sailors will observe the important requirement of *at least one year's actual bona fide residence and cultivation* of the homestead, and not be deceived by parties who solicit the privilege of locating homesteads in their names at considerable expense, when there is no prospect of settling upon the land selected.

HOW TO PROCEED.

The following proof will be required of parties applying for the benefits of sections 2304, 2305, and 2307, in addition to the prescribed affidavit of the applicant given below.

1. Certified copy of certificate of discharge, showing when the party enlisted and when he was discharged; or the affidavit of two respectable, disinterested witnesses, corroborative of the allegations contained in the prescribed affidavit, on these points, or, if neither can be procured, the party's affidavit to that effect.

2. In case of widows, the prescribed evidence of military service of the husband, as above, with affidavit of widowhood, giving the date of the husband's death.

3. In case of minor orphan children, in addition to the prescribed evidence of military service of the father, proof of death or marriage of the mother. Evidence of death may be the testimony of two witnesses, or certificate of a physician duly attested. Evidence of marriage may be a certified copy of marriage certificate, or of the record of same, or testimony of two witnesses to the marriage ceremony.

The Register and Receiver will be allowed to charge one dollar each for receiving and filing the initiatory declaration of the parties in cases where such declarations are filed. One dollar and fifty cents each will be charged by Registers and Receivers in California, etc., as shown in a previous table of fees and commissions.

On the party producing the proper proof as above, immediate entry of the tract desired may be made; but if the party so elect, he may file a declaration, to the effect that he claims a specified tract of land as his homestead, and that he takes it for actual settlement and cultivation. Thereafter, at any time within six months from the date of filing, the party may come forward, make his entry of the land, and commence his settlement and improvement. Should the party present his declaration through an agent, a duly executed power of attorney from the principal must be presented, who will be bound by the selection his agent may make, the same as though made by himself. Where the party has failed to make entry within six months from the date of filing, he is not thereby debarred from making entry of the tract filed for, unless some adverse right has intervened; and if so, he may enter some other tract that is still vacant. He cannot file a second declaration.

The claims of widows and minor orphan children may be initiated by declaration, as above. Minor orphan children can act only by their duly appointed guardians, who must file certified copies of the powers of guardianship. The law does not require, as a condition to enjoying its benefits, that the party should first file a declaratory statement, and, as before stated, immediate entry may be made.

The forms used in these entries are as follows:

DECLARATION.

No. —

LAND OFFICE AT ——— ———,
(*Date*) ——— ———, 18—.

I, ——— ———, do hereby declare and give notice that I claim for a homestead, under section 2304 of the Revised Statutes of the United States, granting homesteads to honorably discharged soldiers and sailors, their widows and orphans, the —— of section ——, of township ——, of range ——, containing —— acres; and I further declare that I take the said tract of land for actual settlement and cultivation, and for my own use and benefit.

——— ———,
Per ——— ———, *his Attorney in fact.*

APPLICATION.

LAND OFFICE AT ——— ———,
(*Date*) ——— ———, 18—.

I, ——— ———, hereby apply to enter, under section 2304 of the Revised Statutes of the United States, the —— of section ——, of township ——, of range ——, containing —— acres, and for which I filed my declaration on the —— day of ———, ——, through ——— ———, my duly-appointed agent.

——— ———.

I, ——— ———, Register of the land office at ————, do hereby certify that ——— ——— filed the above application at this office on the —— day of ———, ——, and that he has taken the oath and paid the fees and commissions prescribed by law.

——— ———, *Register*.

AFFIDAVIT.

No. ——.

LAND OFFICE AT ——— ———,
(*Date*) ——— ———, 18—.

I, ——— ———, of ———, do solemnly swear that I am a ———, of the age of twenty-one years, and a citizen of the United States; that I served for ninety days in company ——, —— regiment, United States volunteers; that I was mustered into the United States military service the —— day of ———, ——, and was honorably discharged therefrom on the —— day of ———, ——; that I have since borne true allegiance to the Government; and that I have made my application No. ——, to enter a tract of land under section 2304 of the Revised Statutes of the United States, giving homesteads to honorably discharged soldiers and sailors, their widows and orphan children; that I have made said application in good faith; and that I take said homestead for the purpose of actual settlement and cultivation, and for my own exclusive use and benefit, and for the use and benefit of no other person or persons whomsoever: and that I have not heretofore acquired a title to a tract of land under the homestead laws, or voluntarily relinquished or abandoned an entry heretofore made under said laws: So help me God.

——— ———.

Sworn to and subscribed before me, ——— ———, Register of the land office at ————, this —— day of ———, 18—.

——— ———, *Register*.

RULINGS.

The filing of a soldier's declaratory statement is not necessarily an abandonment of a pre-emption claim(a).

Soldiers' homestead declarations must be rejected when received by mail(b).

(a) Eugene Mitchell, *Land Owner*, Vol. 3, p. 164.

(b) Instructions, *Land Owner*, Vol. 1, p. 20.

A party appointed by the applicant as his attorney to select land under the soldiers' homestead law, may substitute and appoint another person to act for him and make such selection(a).

Parties who file their declarations for lands *appropriated by actual entries* may file a second time. Parties filing for lands not entered, but embraced in the valid adverse claim of another, do so at their own risk, and are held to have exhausted their right to *file*, although, upon proof of their good faith and ignorance of the existence of the adverse claim, they may make *actual entry*(b).

Where two parties apply simultaneously to file under Section 2309, R. S., both applications should be received. Should either thereafter apply to enter, notice should be given the other party to show why such entry should not be allowed. Instructions will be issued by the General Land Office, if an appearance is made at the time allowed(c).

In computing the time of service during the rebellion, the General Land Office is governed by the dates of the President's proclamations of April 15, 1861, calling out the militia, and August 20, 1866, declaring the war at an end(d(.

A soldier is not obliged to credit his term of service. After a soldier has resided on his homestead long enough to make with his military service five years, further residence is unnecessary to secure patent(e).

In soldiers' homesteads, where a discrepancy occurs between the proof of service and the records of the War Department, the applicant is allowed sixty days in which to furnish satisfactory proof of service, in which case he should be clearly informed as to what he is required to furnish(f).

The homestead act makes no distinction between regular and volunteer officers and soldiers who served during the war of the rebellion, who have been honorably discharged(g).

Regular army officers who served during the rebellion, etc., may initiate a homestead entry while in the army, but on making final proof must show at least one year's residence on the land entered, if they served four years during the late war(h).

Soldiers now in the Regular Army may perform the preliminary acts relating to the homestead entries therein mentioned(i).

A soldier discharged for disability prior to expiration of term of first enlistment, is entitled to only so much time for second enlistment as he may have served after expiration of term of first enlistment(j).

The time a homestead claimant was in the United States military service in the late rebellion should be taken as a part of the five years in which a contest under the 5th section of the homestead act could be commenced, and if such period, when added to the time of actual residence and cultivation, was more than five years before the contest commenced, the contest should be dismissed(k).

Where a soldier has lost his discharge papers he must file with the proper district land officers his affidavit detailing his service, the same to be corroborated by the testimony of two witnesses cognizant of the facts; which evidence will be accepted as satisfactory proof of service. If he is unable to obtain the corroborative testimony, he may file his own affidavit as to service, with his application to make a homestead entry; and upon receipt at the General Land Office of the affidavit and application, official information regarding alleged service will be obtained from the War Department, compared with the party's affidavit, and if found satisfactory the entry will be allowed(l).

(a) Philip Betz, *Land Owner*, Vol. 6, p. 93.

(b) A. W. Duggan, *Land Owner*, Vol. 2, p. 35.

(c) Wilkes & Farnsworth, *Land Owner*, Vol. 4, p. 207.

(d) Instructions, *Land Owner*, Vol. 1, p. 3. A. F. Hubbell, Ibid, p. 246.

(e) G. M. Burlingame, Copp's Public Land Laws, p. 269.

(f) Thomas Graham, *Land Owner*, Vol. 3, p. 164.

(g) Instructions, *Land Owner*, Vol. 2, p. 50.

(h) W. A. M. Dudley, *Land Owner*, Vol. 3, p. 69.

(i) Instructions, *Land Owner*, Vol. 2, p. 133.

(j) Preston Swords, *Land Owner*, Vol. 1, p. 20.

(k) Burt *vs.* Dopp, Copp's Public Land Laws, p. 270.

(l) P. W. Hitchcock, *Land Owner*, Vol. 3, p. 69.

Where a single woman has made a homestead entry, she cannot thereafter as the widow of a soldier make a second homestead entry(a).

A married woman cannot become entitled to credit on a homestead entry for her husband's military services during the late war(b).

The husband's military service during the rebellion cannot apply on a homestead entry initiated by the wife previous to marriage. After the commutation or consummation of the wife's entry, the husband may make an entry in his own name(c).

A party may make a homestead entry in his own name and receive patent for the land, and as "one of the heirs," may perfect another entry made by his mother (soldier's widow), and he may apply his father's term of military service upon the settlement required, if his mother had not remarried at the date of entry. Patent will issue "for the benefit of the heirs"(d).

No person except the widow or minor orphan children of a deceased soldier is entitled to the benefit of section 2305 Revised Statutes(e).

The rule laid down in Dorame *vs.* Towers applies in cases where homestead entries are made by guardians for minor heirs of deceased Union soldiers. Residence on the tracts entered cannot be reasonably expected in such cases, and if the land has been cultivated in good faith, the law has been substantially complied with(f).

There is no law granting bounty lands to parties who served in the Army or Navy during the late war. Paymasters' stewards are not entitled to the benefits of the Soldiers' Homestead Acts(g).

A contract surgeon is not entitled to the benefit of the Soldiers' Homestead Laws(h).

In making final proof on a homestead entry under the Soldiers' and Sailors' Homestead Act, the party will be required to present to the proper district land officers a certified copy of his discharge from the United States Army during the war of the rebellion, or in the absence thereof, "satisfactory evidence" of service, which may consist of the party's affidavit of the facts, corroborated by the testimony of two disinterested witnesses, will be accepted. If this "satisfactory evidence" cannot be obtained, or if obtained, fails to show that the party had received *an honorable discharge*, the General Land Office will, upon application and on receipt of the requisite data of the party's services, consisting of his name, number of regiment, alphabetical designation of the company in which he served, branch of service, and State where enlisted, obtain from the War Department an "official statement" of his service(i).

b. ADDITIONAL ENTRIES.

Every person entitled under section 2304 of the Revised Statutes, who had prior to June 22, 1874, made a homestead entry of less than one hundred and sixty acres, may enter so much land as when added to the quantity previously entered shall not exceed one hundred and sixty acres.

Where a party entitled desires to make an additional entry, it is required that a full recital of military service be presented to the General Land Office, with due proof of the identity of the party making the claim, and with proper reference to his original homestead entry, giving the name of the district office, date and number of entry, and description of the land. In addition, a detailed statement, under oath, must be filed by the party in interest, setting forth the facts respecting his right to make the entry, and containing his declaration that he has not in any manner exercised his right, either by previous entry or application, or by sale, transfer, or power of attorney, but that the same remains in him unimpaired. He must also declare, under oath, that he has made full compliance with the Homestead Law in the matter of residence upon, cultivation and improvement of, his original homestead entry; and should further recite whether or not he has proved up his claim and received a patent for the land.

(a) H. M. Chace, *Land Owner*, Vol. 3, p. 63.

(b) Mrs. Keziah Card, *Land Owner*, Vol. 2, p. 90.

(c) L. J. Crane, *Land Owner*, Vol. 1, p. 35.

(d) Charles Lee, *Land Owner*, Vol. 5, p. 147.

(e) S. P. Gamble, *Land Owner*, Vol. 4, p. 146.

(f) Minnus *vs.* Salmons, *Land Owner*, Vol. 4, p. 38.

(g) F. S. Jones, *Land Owner*, Vol. 3, p. 72.

(h) G. W. Benton, *Land Owner*, Vol. 3, p. 52.

(i) J. W. Bonine, Copp's Public Land Laws, p. 271.

The following form is prescribed by the General Land Office:

ADDITIONAL HOMESTEAD.—SPECIAL AFFIDAVIT AS TO MILITARY SERVICE, IDENTITY, ETC.

LAND OFFICE AT —— ——,
—— ——, 18—.

I, —— ——, of ——, do solemnly swear that I am the identical person who was mustered into the military service of the United States under the name of —— ——, in Company ——, —— Regiment of —— Volunteers, on the —— day of ——, 186—, and was honorably discharged from such service on the —— day of ——, 186—.

I furthermore solemnly swear that I am the identical person who made original homestead entry No. ——, at ——; that I now make application for an additional homestead entry, having fully met all the requirements of the Homestead Law as to said original entry; that I have not sold my additional homestead claim, and that I have not made any prior application for an additional homestead certificate.

My post office address is ——.

Two witnesses to signature.]

—— ——,
—— ——,
—— ——,
Claimant.

Sworn to and subscribed, this —— day of ——, 18—, before
—— ——,
—— ——.

The undersigned do solemnly swear that we have been well acquainted with said —— ——, who made the above affidavit, for about —— years, and that we have reason to know that his statements in said affidavit are true.

—— ——,
—— ——.
Two corroborating witnesses.

Sworn to and subscribed this —— day of ——, 18—,
—— ——,
—— ——,

This affidavit, corroborated by two witnesses who are acquainted with the claimant and know that his statements therein are true, and the usual homestead affidavit, must be acknowledged before a local land officer, or the judge or clerk of the court of the county wherein the claimant resides. It cannot be taken before any other official.

When these papers are filed and examined, they will, if found satisfactory, be returned with a certificate attached, recognizing the right of the party to make additional entry under the law; and when presented with a proper application at any district land office, either by the party entitled or his agent or attorney, they will be accepted by the Register and Receiver, and forwarded with the entry papers in the usual manner.

The fee for examination and certificate, under the seal of the General Land Office, is one dollar, which must in all cases accompany the papers presented for approval.

Where the party's first entry has been consummated, the Register and Receiver will require him to make application in the form prescribed below, and to pay the same fee and commissions as in cases of original entry; whereupon the Receiver will issue his receipt for the money paid.

APPLICATION.

No. ——.

LAND OFFICE AT ——,
(*Date*) ——, 18—.

I, —— ——, of —— county, State of ——, being entitled to the benefits of section 2306 of the Revised Statutes of the United States, granting additional lands to soldiers and sailors who served in the war of the rebellion, do hereby apply to enter the —— of section ——, of township ——, of range ——, containing —— acres, as additional to my original homestead on the —— of section ——, of township ——, of range ——, containing —— acres, which I entered ——, 18—, per homestead No. ——.

—— ——.

LAND OFFICE AT —— ——,
(*Date*) ——, 18—.

I, —— ——, Register of the land office at —— ——, do hereby certify that —— —— filed the above application before me for the tract of land therein described, and that he has paid the fees and commissions prescribed by law.

—— ——, *Register.*

In case the party has not made proof on his original homestead entry when he applies for additional land, he will be allowed to make the additional entry on proper application, as above stated, and paying the usual fee and commissions, for which the Receiver will issue his receipt. Thereafter, when the party shall make final proof on the original entry, he will be required to pay the final commissions on both entries, when a final receipt will be issued for the money. On these papers the Register and Receiver will make a reference to the original and the additional entry, and on them one patent will issue for both; yet where it happens that the original entry and the additional entry are made in different land districts, this rule must be departed from so far as regards the issuing of one final certificate and receipt for both.

RULINGS.

A homestead declaratory statement can only be filed in case of an original homestead entry, and not for an additional tract(a).

A soldier is entitled to make an entry of one hundred and sixty acres, of either minimum or double minimum land, but having once made an entry, *subsequent* to June 22, 1874, his rights under the Homestead Laws are exhausted, notwithstanding he may have entered *less* than one hundred and sixty acres(b).

A soldier who elects to make an additional homestead entry of a less number of acres than he is entitled to, cannot make another entry for the balance(c).

A qualified soldier or sailor who homesteaded eighty acres and entered forty acres additional under the act of June 8, 1872, will be allowed to enter enough more to make up one hundred and sixty acres, if the first two entries were made prior to June 22, 1874(d).

The abandonment of an original homestead entry of less than one hundred and sixty acres will not disqualify a soldier or sailor from making an additional entry, but settlement and cultivation must be made upon the additional tract the same as in case of an original entry(e).

Applicants for additional land will be charged the original and final commissions in all cases(f).

A qualified soldier under section 2306 of the Revised Statutes may enter enough more land than his original entry to make up one hundred and sixty acres, and pay cash for a small excess.

But where he applies to enter a tract or tracts, the area of which, added to that of his original entry, shall exceed the one hundred and sixty acres by a greater excess than the area it would require to make up the deficiency, such application should be rejected(g).

A soldier's additional homestead certificate cannot be located on a tract where the excess in area is more than the number of acres called for in the certificate(h).

A contest for abandonment of an additional entry will not be entertained(i).

III. Special Relief.

In the first section of the act of Congress of July 1, 1879, entitled "*An Act for the relief of settlers on the public lands in districts subject to grasshopper incursions,*" it is provided—

"That it shall be lawful for homestead and pre-emption settlers on the public lands, and in all cases where pre-emptions are authorized by law, where crops have been or may be destroyed or seriously injured by grasshoppers, to leave and be absent from said lands, under such rules and regulations, as to proof of the same, as the Commissioner of the General Land Office shall prescribe; but in no case shall such absence extend beyond one year continuously; and during such absence no adverse rights shall attach to said lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred."

And in its second section it is provided—

"That the time for making final proof and payment by pre-emptors whose crops shall have been destroyed or injured as aforesaid, may, in the discretion of the Commissioner of the General Land Office, be extended for one year after the expiration of the term of absence provided for in the first section of this act; and all the rights and privileges extended by this act to homestead and pre-emption settlers shall apply to and include the settlers under an act entitled 'An act to encourage the growth of timber on western prairies,' approved March third, eighteen hundred and seventy-three, and the acts amendatory thereof."

The proof required in the first section of said act may consist of the affidavit of the claimant, giving the particulars of the alleged destruction or serious injury of crops by grasshoppers, and the affidavits of two or more witnesses corroborative thereof, and should be submitted at time of making final proof through the Register and Receiver of the proper district land office. The particulars given should be such as to admit of a decision whether the absence was justified by law or not, and should of course indicate at what time the party left the land, and when he resumed his settlement.

(a) J. N. Langford, Copp's Public Land Laws, p. 281.

(b) J. J. Thomas, *Land Owner*, Vol. 5, p. 147.

(c) Joseph Alsip, *Land Owner*, Vol. 4, p. 179.

(d) Charles Radamacker, Copp's Public Land Laws, p. 280.

(e) J. W. Hays, *Land Owner*, Vol. 3, p. 21.

(f) J. Atkinson, *Land Owner*, Vol. 1, p. 35.

(g) Miles Schoolcraft, *Land Owner*, Vol. 2, p. 99.

(h) W. C. Gleason, *Land Owner*, Vol. 6, p. 106.

(i) White vs. Lafferty, Copp's Public Land Laws, p. 280.

Written notice of intended absence, signed by the party, should be filed with the Register and Receiver when he leaves his claim, and be noted on the tract-books; this for the protection of the claimant, and as notice to those who might otherwise make settlement and attempt to obtain title.

Claimants desiring the extension of time provided for in the second section of the act may apply therefor through the same officers, the application to be supported by the same character of proof. The affidavits required in cases under this act, as before indicated, may be made before any officer using a seal and authorized to adminster oaths, or before the Register or Receiver of the district land office.

CHAPTER IV.

PRE-EMPTIONS.

I. Pre-emption Claims.

The principal differences between the homestead and the pre-emption privilege are: 1. That beyond the small fees and commissions to the Registers and Receivers, nothing is paid for the land homesteaded, whereas $1.25 or $2.50 per acre in money or its equivalent must be paid for the land pre-empted. 2. The homestead right commences from date of entry at the local land office, while the pre-emption right is initiated by settlement on land subject thereto. 3. Only surveyed land can be homesteaded, whereas unsurveyed tracts may be pre-empted, and after survey the pre-emption claim may be changed into a homestead entry if desired.

The principal resemblances are: 1. That certain time is allowed after the first papers are filed in the land office within which final proof must be made. 2. Residence and cultivation and improvements are necessary to secure title.

The same person may pre-empt, homestead, and claim under the timber-culture laws, one hundred and sixty acres, *i. e.*, four hundred and eighty acres in all. Thereafter he may buy of private parties and corporations as much more as his means and inclinations allow.

Pre-emptions are admissible to the extent of one-quarter section or one hundred and sixty acres of "offered" and "unoffered," "minimum" and "double-minimum"(*) lands, and upon any of the unsurveyed lands belonging to the United States to which the Indian title is extinguished, although in the case of unsurveyed lands no definite proceedings can be had as to completion of title until after the surveys are extended and officially returned to the district land office.

Where the tract is "*offered*" land, the party must file with the district land officers his declaratory statement as to the fact of his settlement within *thirty days* from the date of said settlement, form below, and within *one year* from date of settlement must appear before the Register and Receiver and make proof of his actual residence on, and cultivation of, the tract, and secure the same by paying *cash*, or locating thereon military bounty-land warrants, or agricultural-college or other scrip, according to law.

DECLARATORY STATEMENT FOR CASES WHERE THE LAND CLAIMED IS SUBJECT TO PRIVATE ENTRY.

I, ——— ———, of ———, being ———, have, since the first day of ———, A. D., 18—, settled and improved the ——— quarter of section No. ——, in township No. ——, of range No. ——, in the district of lands subject to sale at the land office at ———, and containing ——— acres, which land *had been rendered subject to private entry* prior to my settlement thereon; and I do hereby declare my intention to claim the said tract of land as a pre-emption right, under section 2259 of the Revised Statutes of the United States.

Given under my hand this ——— day of ———, A. D., 18—.

——— ———.

In presence of ——— ———.

Where the tract has been surveyed and *not* offered at public sale, the claimant must file his declaratory statement within *three months* from date of settlement, and make proof and payment within *thirty months* after the expiration of the three months allowed for filing his declaratory notice, or, in other words, within *thirty-three months* from date of settlement.

Where settlements are made on *unsurveyed* lands, settlers are required, within three months after the date of the receipt at the district land office of the approved plat of the township embracing their claims, to file their declaratory statement with the Register of the proper land office, as in cases of unoffered land above, and thereafter to make proof and payment for the

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(*) These four terms were explained in the first chapter.

tract within thirty months from the expiration of said three months. The local officers usually publish a notice when the plat is filed.

When two or more settlers on unsurveyed land are found upon survey to be residing upon, or to have valuable improvements upon, the same smallest legal subdivision, they may make joint entry of such tract, and separate entries of the residue of their claims. This joint entry may be made in pursuance of contract between the parties, or without it.

DECLARATORY STATEMENT FOR CASES WHERE THE LAND IS NOT SUBJECT TO PRIVATE ENTRY.

I, —— ——, of ——, being ——, have, on the —— day of ——, A. D., 18—, settled and improved the —— quarter of section No. ——, in township No. ——, of range No. ——, in the district of lands subject to sale at the land office at ——, and containing —— acres, which land has not yet been offered at public sale, and thus rendered subject to private entry; and I do hereby declare my intention to claim the said tract of land as a pre-emption right under section 2259 of the Revised Statutes of the United States.

Given under my hand this —— day of ——, A. D., 18—

In presence of —— ——.

—— ——.

a. WHO ARE QUALIFIED PRE-EMPTORS.

The pre-emption privilege is restricted to heads of families, widows, or single persons over the age of twenty-one, who are citizens of the United States, or who have declared their intention to become citizens, as required by the naturalization laws. This does not include Indians, except such as have ceased their tribal relations and been declared citizens by treaties or acts of Congress.

Those are excluded who own three hundred and twenty acres of land, who have left land of their own to reside upon the public land in the same State or Territory, and those who intend to settle for the purposes of speculation instead of cultivation and residence.

If a single woman marry after filing her declaratory statement, she abandons her right as a pre-emptor(a).

Under the pre-emption laws, the "head of a family" means the actual living head of a family. A deserted wife or one whose husband is a confirmed drunkard may be the head of a family(b).

A married woman who has minor children and has been abandoned without cause by her husband and left to support and maintain herself and children, is the head of a family, and entitled to pre-empt in her own name(c).

A party's declarations of being a naturalized citizen or having declared his intentions to become a citizen are not competent evidence, though his declarations that he is not a citizen are competent(d).

A party cannot hold public land as a tenant for a claimant under the pre-emption law(e).

b. SETTLEMENT AND FILING.

From the moment a claimant enters upon land subject to pre-emption with the intention of remaining and entering the land according to law, and does some act showing such intention, he is a settler(f). Such act may consist in erecting a house, clearing timber, building fences, etc.

Having made a settlement, his next step towards securing title is the filing of his declaratory statement within the time specified, or he will be liable to lose his claim.

The pendency of a contest between two pre-emption claimants does not exclude pre-emption settlement and filing. They may be made subject to the decision in the contest pending(g).

The filing of a Declaratory Statement before settlement does not invalidate a right in the absence of an adverse claim(h).

A settler can make but one legal filing under the pre-emption laws(i).

But one pre-emption right is extended to the settler, and only one declaratory statement can be legally filed by the same party(j).

(a) Ellen Allanson, Copp's Public Land Laws, p. 287. (b) Wakeman vs. Bradley, *Land Owner*, Vol. 2, p. 162.

(c) Sarah E. R. Hazelrigg, Copp's Public Land Laws, p. 286.

(d) Walker's Heirs vs. California, Copp's Public Land Laws, p. 287.

(e) Dilla vs. Bohall, *Land Owner*, Vol. 4, p. 162. (f) Allman vs. Thulon, Copp's Public Land Laws, p. 690.

(g) Schafer vs. Scheibel *et al.*, Copp's Public Land Laws, p. 292.

(h) Stanley vs. Fairchild, *Land Owner*, Vol. 3, p. 117.

(i) Maria Stevens, *Land Owner*, Vol. 4, p. 39. (j) Minor vs. Briggs, *Land Owner*, Vol. 4, p. 69.

Section 2261, Revised Statutes, forbids second filings where the first is legal.

Local officers are directed to allow no second or amended filings without first submitting the facts to the Commissioner of the General Land Office, and after receiving formal authority for such action(a).

A declaratory statement can be amended only in case of mistake or misdescription(b).

To allow a second filing by one who knew his first filing was illegal, and who claims to be benefited by the illegality of his first filing, would be allowing a party to take advantage of his own wrong, and encourage others to wrong-doing, by removing the penalty therefor(c).

A second filing is allowed in case of a minor, a *bona fide* settler, on becoming of age, as an amendment, to correspond with the facts of his legal settlement, provided there is no adverse claim(d).

Where a party filed on land not habitable for agricultural purposes, but which was clearly swamp land, a second filing will be allowed on land properly agricultural in character(e).

In case it satisfactorily appears that a pre-emption settler has made an error in his declaratory statement, so that a tract he has improved has been excluded therefrom, he is allowed to amend his declaratory statement so as to include said tract, subject to an adverse claim(f).

A pre-emptor who has misdescribed the land embracing his residence and improvements, is allowed to amend, unless by his own laches, negligence or declarations, he has barred his right in favor of an adverse interest(g).

A widow who, by mistake, filed a declaratory statement in her own name, instead of for "the heirs," will be allowed, on a proper showing, to amend her filing. Such mistake does not operate to defeat the rights of the heirs under the pre-emption laws(h).

A declaratory statement on file in the proper office is notice to the world of the location and extent of a pre-emption claim; and no subsequent amendment, except for error or mistake, can operate to defeat a right initiated prior to such amendment(i).

A party whose application to file a declaratory statement is rejected has a right to appeal. His failure to do so will conclude any right he may have had to the land claimed at the time of such refusal(j).

All rights of pre-emption existing in any person upon land in a township offered at public sale are extinguished on the day appointed for the commencement of the sales, if not asserted prior to the date of sale, and no rights can descend to heirs based upon settlement prior thereto.

Land designated as mineral, but actually agricultural in character, is only subject to pre-emption after its segregation from the mineral lands by the Secretary of the Interior(k).

After land has been proclaimed, no filing can be received until after the offering—*provided* the land still remains unsold.

A party settled on unsurveyed land. When a certain township was surveyed, a part of his claim was found therein, the balance being in an adjoining unsurveyed township. The settler filed for the portion of his claim which was surveyed, and gave notice that he claimed land in the adjoining unsurveyed township. The time within which, by law, he was required to prove up his claim was about to expire, and the other township had not been surveyed; it was held by the Land Department that after the other township should be surveyed, and the plat thereof returned, the settler should be allowed the usual time within which to file his declaratory statement and prove up and pay for his entire claim(l).

A pre-emption settler on unsurveyed lands is not bound to file his declaratory statement until after an approved survey has been made which shall enable him to describe the land claimed by proper legal sub-divisions. Where part only of his claim has been surveyed, he is not bound to file until after the entire tract claimed has been surveyed and plat thereof returned to the local office(a).

(a) D. C. Brownell, *Land Owner*, Vol. 4, p. 41.

(b) D. A. Snyder, *Land Owner*, Vol. 2, p. 116.

(c) French *vs.* Tatro, *Land Owner*, Vol. 3, p. 166.

(d) *Ibid.*

(e) F. L. Goings, *Land Owner*, Vol. 4, p. 117.

(f) Instructions, *Land Owner*, Vol. 5, p. 148.

(g) Jeff. Newcomb, *Land Owner*, Vol. 2, p. 162.

(h) Elizabeth Luce, *Land Owner*, Vol. 2, p. 180.

(i) University of Cala. *vs.* Block, Copp's Public Land Laws, p. 322.

(j) Brown *vs.* White, Copp's Public Land Laws, p. 298.

(k) Tong *vs.* Hall *et al.*, *Land Owner*, Vol. 3, p. 3.

(l) Wm. McHenry, Copp's Public Land Laws, p. 295

A party who filed on an eighty-acre tract, cannot be allowed to file for an eighty-acre tract adjoining upon the cancellation of a homestead entry thereon(b).

Land covered by a homestead is subject to a pre-emption claim initiated prior to the homestead, and filing should be received within the legal period after settlement(c).

The local land officers have no authority to receive applications to file or enter land which is in a state of reservation, and hold them until the reservation is removed, and then place them on record, in order to advance the interests or accommodate any individual(d).

Where land has been reserved and then released from such reservation, the rule is to give notice by publication when the land will become subject to appropriation. A pre-emptor who has been living on such land will have preference over a pre-emptor who makes settlement on the day the land becomes subject to appropriation, other things being equal(e).

A settler who in good faith is residing on a tract of land covered by a homestead entry at the date of the cancellation of said entry, has a superior right to said tract, if he file under the pre-emption law in time, to a person who merely makes a homestead entry on the land the day the prior entry is canceled(f).

Where a pre-emptor tenders his declaratory statement for a tract of land before another pre-emptor has fully completed his entry, by making payment for the same tract, the declaratory statement should be received and the party allowed a regular hearing before the local officers(g).

The cancellation of a filing upon *ex parte* affidavits is error(*ib*).

Land, when once appropriated under the Homestead Law, is thereafter removed from pre-emption settlement and homestead entry, and can only be again subject to them by a cancellation of the homestead entry in the manner prescribed by law. Such cancellation becomes effective at the date of the receipt of the order therefor at the local office(h).

Lands covered by unexpired homestead filings, may be filed upon under the pre-emption laws subject to the homestead filings(i).

A party cannot file under the pre-emption and the homestead law at the same time.

c. RESIDENCE AND IMPROVEMENTS.

The sufficiency of residence and improvements is a question of fact to be decided from the circumstances of each case. The good faith of every claimant must be clearly proven.

Where a party is very poor, a dug-out in the side of a hill or a sod house is a satisfactory place of abode, and four pre-emptors may combine to erect a house on the corner common to their claims, but each pre-emptor must reside in his own part of the house(j). Should one of them be unmarried, he may board in the family of a married pre-emptor.

A public officer may, during the term of his office, actually reside at the capital or other place required by law for him to reside, without losing his legal residence(k).

Where it can be shown that such public officer in good faith intended to appropriate certain premises under the pre-emption law, and that after residing thereon for several years he left for temporary purposes only, retaining actual possession of the land during such absence, he cannot be said to have abandoned either the premises or his claim under the pre-emption laws(k).

Should a claimant settle late in the autumn in a cold climate, or severe droughts or other good cause prevent extensive cultivation, or lack of means seriously interfere, few improvements and little cultivation would be required by the Land Department.

(a) P. A. Roundtree, Copp's Public Land Laws, p. 296. (b) Daniel Ashton, *Land Owner*, Vol. 4, p. 117.
(c) Keisker *vs.* Johnson *et al.*, Copp's Public Land Laws, p. 319.
(d) McKee *vs.* Walther *et al.*, *Land Owner*, Vol. 5, p. 84.
(e) Timmons *vs.* Gleason, *Land Owner*, Vol. 3, p. 71.
(f) Born *vs.* Clemons *et al.*, *Land Owner*, Vol. 1, p. 67.
(g) Conroy *vs.* Phillips *et al.*, Copp's Public Land Laws, p. 297.
(h) Crystal *vs.* Dahl, Eno *vs.* McDonald, Copp's Public Land Laws, p. 316.
(i) Instructions, *Land Owner*, Vol. 1, p. 163. (j) Wright *vs.* Wood, Copp's Public Land Laws, p. 304.
(k) Benson *vs.* Western Pacific R. R. Co., Copp's Public Land Laws, p. 412.

d. PROOF AND PAYMENT.

Within the time specified on page 61, proof of compliance with the law and payment of the money due, or its equivalent in warrants or scrip, must be made. Published notice must be given and proof thereof presented as in homestead cases.

The affidavit required must be made in person before the Register or Receiver, while the evidence of witnesses may be taken before any officer authorized to administer oaths(a).

AFFIDAVIT REQUIRED OF PRE-EMPTION CLAIMANT.

I, —— ——, claiming the right of pre-emption, under section 2259 of the Revised Statutes of the United States, to the —— of section No. ——, of township No. ——, of range No. ——, subject to sale at ——, do solemnly —— that I have never had the benefit of any right of pre-emption under said section; that I am not the owner of three hundred and twenty acres of land in any State or Territory of the United States, nor have I settled upon and improved said land to sell the same on speculation, but in good faith to appropriate it to my own exclusive use or benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except myself.

—— ——.

I, —— ——, of the land office at ——, do hereby certify that the above affidavit was subscribed and sworn to before me this —— day of ——, A. D., 18—.

PRE-EMPTION PROOF.

TESTIMONY OF CLAIMANT.

—— ——, being called as a witness in —— own behalf in support of —— pre-emption claim to the ——, testifies as follows:

Ques. 1. What is your name? (Be careful to give it in full, correctly spelled, in order that it may be here written exactly as you wish it written in the patent which you desire to obtain.)

Ans. ——.

Ques. 2. What is your age?

Ans. ——.

Ques. 3. Are you the head of a family, or a single person; and, if the head of a family, of whom does your family consist?

Ans. ——.

Ques. 4. Are you a native-born citizen of the United States? If not, have you declared your intention to become a citizen, and have you obtained a certificate of naturalization(b)?

Ans. ——.

Ques. 5. Is the land embraced in your pre-emption claim, above described, included within the limits of an incorporated town? or has it been selected as the site of a city or town, and actually settled and occupied for purposes of trade and business?

Ans. ——.

Ques. 6. Are there any indications of coal, salines, or minerals of any kind on this land? (If so, state what they are, and whether the springs or mineral deposits are valuable.)

Ans. ——.

Ques. 7. Is the land more valuable for agricultural than mineral purposes?

Ans. ——.

Ques. 8. What is your post-office address?

Ans. ——.

Ques. 9. Are you the owner of three hundred and twenty acres of land in any State or Territory?

Ans. ——.

Ques. 10. Have you left or abandoned a residence on land of your own in this —— to reside upon the land above described?

Ans. ——.

Ques. 11. Have you ever filed a pre-emption declaratory statement for other land than that above described? (If so, give, as nearly as you can, the date thereof and description of the land.)

Ans. ——.

Ques. 12. Have you heretofore made a pre-emption entry?

Ans. ——.

Ques. 13. Have you settled upon and improved the land for which you now apply to sell the same on speculation?

Ans. ——.

Ques. 14. Have you given any mortgage on this land, and have you made any agreement to sell the same?

Ans. ——.

Ques. 15. When did you make settlement on the land, and what constituted your first act of settlement?

Ans. ——.

Ques. 16. What improvements, if any, were on the land at date of your settlement? (If any, state who owned them, and whether they now belong to you.)

Ans. ——.

Ques. 17. What improvements have you made on this land subsequent to your first act of settlement? (Describe them and state the total value of the improvements owned by you thereon.)

Ans. ——.

Ques. 18. When did you first establish your residence upon the land?

Ans. ——.

Ques. 19. Have you resided upon the land ever since?

Ans. ——.

Ques. 20. What use have you made of the land?

Ans. ——.

(a) George Chisholm, *Land Owner*, Vol. 4, p. 69. Instructions, *Land Owner*, Vol. 4, p. 4.

(b) In case the party has been naturalized, or has only declared his intention to become a citizen, a certified copy of his certificate of naturalization or declaration of intention, as the case may be, must be furnished.

Ques. 21. How much of the land, if any, has been broken and cultivated since your settlement?
Ans. ——.

I HEREBY CERTIFY that each question and answer in the foregoing testimony was read to the claimant before —— signed —— name thereto, and that the same was subscribed and sworn to before me this —— day of ——, 18—.

—— ——,
——.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. [See § 1750.]

PRE-EMPTION PROOF.

TESTIMONY OF WITNESS.

(The testimony of two witnesses, in this form, taken separately, required in each case.)

—— ——, being called as a witness in support of the pre-emption claim of —— —— to the ——, testifies as follows:

Ques. 1. What is your post-office address?
Ans. ——.

Ques. 2. What is your occupation?
Ans. ——.

Ques. 3. Are you well acquainted with —— ——, the claimant in this case, and how long have you known ——?
Ans. ——.

Ques. 4. How old do you know or believe claimant to be?
Ans. ——.

Ques. 5. Is claimant the head of a family, or a single person; and, if the head of a family, of whom does the family consist?
Ans. ——.

Ques. 6. Is claimant a native-born citizen of the United States? (If not, state, if you can, what steps —— has taken to become naturalized.)
Ans. ——.

Ques. 7. Are you acquainted with the land above described?
Ans. ——.

Ques. 8. Do you live in the vicinity of the land?
Ans. ——.

Ques. 9. Is this land within the limits of an incorporated town, or has it been selected as the site of a city or town and actually settled and occupied for purposes of trade and business?
Ans. ——.

Ques. 10. Are there any indications of coal, salines, or minerals of any kind on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.
Ans. ——.

Ques. 11. Is the land more valuable for agricultural than mineral purposes?
Ans. ——.

Ques. 12. Is the claimant the owner of 320 acres of land in any State or Territory? (State your knowledge in this regard.)
Ans. ——.

Ques. 13. Has the claimant left or abandoned a residence on land of —— own in this —— to reside upon the land above described? (State your knowledge in this regard.)
Ans. ——.

Ques. 14. Has claimant ever filed a pre-emption declaratory statement for other land than that above described, or has —— heretofore made a pre-emption entry? (State your knowledge in this regard.)
Ans. ——.

Ques. 15. Do you know whether the claimant has given any mortgage on this land, or made any agreement to sell the same? (State your knowledge in this regard.)
Ans. ——.

Ques. 16. When did claimant first make settlement on the land, and what constituted his first act of settlement?
Ans. ——.

Ques. 17. What improvements does the claimant possess on the land, and what is the value of the same?
Ans. ——.

Ques. 18. When did claimant first establish a residence upon the land?
Ans. ——.

Ques. 19. Has claimant resided upon the land continuously ever since?
Ans. ——.

Ques. 20. For what purpose has the land been used by claimant?
Ans. ——.

Ques. 21. How much of the said land, if any, has been broken and cultivated since the claimant made settlement thereon?
Ans. ——.

Ques. 22. Is it your belief that —— —— has acted in good faith in the settlement and improvement of the said land under the pre-emption laws? Have you any knowledge to the contrary?
Ans. ——.

QUES. 23, Are you interested in this claim?
ANS. ——.

——— ———

I HEREBY CERTIFY that witness is a person of respectability; that each question and answer in the foregoing testimony was read to ——— before ——— signed ——— name thereto; and that the same was subscribed and sworn to before me this ———day of ———, 18—.

——— ———,
———.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, wilfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. [See § 1750.]

The Register and Receiver will thereupon issue the final papers, giving the claimant a duplicate of the Receiver's receipt for the money paid. The patent will be issued in due course and sent to the local land office for delivery, unless otherwise directed by the claimant, as described in Chapter I.

When two or more settlers on unsurveyed land are found upon survey to be residing upon, or to have valuable improvements upon, the same smallest legal subdivision, that is, a forty-acre tract or a lot, they may make joint entry of such tract, and separate entries of the balance of their claims. This joint entry may be made in pursuance of contract between the parties, or without it.

At any time after three months after the township plat is filed in the local office, a party who wishes a speedy adjustment of his claim may bring contest against adverse claimants by filing his affidavit and making provision for the expenses of the contest before the Register and Receiver. The hearing may be adjourned for distance or other good cause, and the testimony may be taken on a commission issued to any officer authorized to administer oaths.

When the joint entry is made in pursuance of contract, the contract should be made first, and the filing and entry thereafter be made in pursuance thereof, by one party for all concerned.

This contract must be in writing signed by all parties thereto, attested by two disinterested witnesses, and acknowledged before some officer authorized to take acknowledgments of deeds within and for the State where the land is situated. The character and authority of the officer must be verified by the seal of a court of record.

Proof of occupation by settlement, residence and improvement by each and every party to the contract, must be made. The entry of an inconsiderable excess over one hundred and sixty acres will be permitted when the tract is bounded by regular quarter-section lines of survey. The pre-emption affidavit will be modified by inserting after the word "whomsoever," the words, "save under Section 2274 of the Revised Statutes of the United States, and as specified in the contract herewith submitted in pursuance thereof."

No one who settled after survey was made can be a party to a joint entry, though where a party succeeds by purchase to the rights of one of two settlers before survey where there is a recognized division of land, such tract may be entered by the two settlers jointly(a).

The established rule for awarding entries where two or more *bona fide* pre-emption claimants are found by the Government survey with conflicting or over-lapping claims, is:

1. Joint entries for the adjustment of coterminuous boundaries.
2. Entries by legal subdivisions to include principal improvements.
3. Entry by the prior settler. Such entries to be allowed as equity and justice may require(b).

Should the settler die before establishing his claim within the period limited by law, the title may be perfected by the executor, administrator, or one of the heirs, by making the requisite proof of settlement and paying for the land; the entry to be made in the name of "the heirs" of the deceased settler; and the patent will be issued accordingly. The legal representatives of the deceased pre-emptor are entitled to make the entry at any time within the period during which the pre-emptor would have been entitled to do so had he lived.

(a) Vennigerholts vs. McKennon, *Land Owner*, Vol. 6, p. 154.

(b) Powell vs. Beatty. *Land Owner*, Vol. 2, p. 115.

The executor, administrator, or one of the heirs, has the absolute right to complete the necessary proceedings for acquisition of title in case of a deceased pre-emption claimant(a). The Land Department does not inquire if there are any heirs; but if there are any, it casts the title distributively upon each by including him in the general provision(b).

RULINGS.

Where, from the nature of the land entered under the pre-emption law, it would appear that the claimant has selected it for speculative purposes rather than for purposes of improvement and cultivation, the evidence of good faith and occupation should be of the most satisfactory character(c).

A pre-emptor may pay for part of his claim and abandon the balance(d).

A pre-emptor filed a declaratory statement, made improvements, etc., and thereafter was placed under a guardian because of softening of the brain, held that his guardian should make the application, proof and payment in behalf of the incompetent person(e).

Parties who apply to make entry of lands under the provisions of the pre-emption laws, should be required to show by affidavit or otherwise that they have not made a previous filing(f).

The even sections along the route of the railroad granted by act of July 1, 1862, and the acts amendatory thereof, must be sold for not less than $2.50 per acre(g).

A pre-emptor who settled prior to withdrawal for railroads, may enter his land at the minimum price at any time prior to the initiation of an adverse right by another settler(h).

Where a pre-emptor makes final proof and payment and certificate for patent issued, such certificate may be assigned to a *bona fide* purchaser for value, who will be protected in his purchase.

The good faith of the purchaser must be established by the facts in the case beyond question; but when so established, his rights cannot be invalidated by showing that his grantor failed to comply with the law(i).

A party who purchases land without examination or inquiry, cannot be considered an innocent purchaser, especially when he fails to offer testimony showing his own good faith and that of his grantors, at an investigation ordered for that purpose(j).

Irregularities in the pre-emption proceedings may be overbalanced in view of ignorance and good faith, but a certificate issued to a pre-emptor on a sworn statement of alleged facts which never existed, is void(*ib*).

Where a party settles as a pre-emptor upon land subject to such settlement, and in due time offers to make proof and payment at the proper land office, his right will not be prejudiced by the wrongful refusal of the local officer to receive such proof and payment, and he will not be obliged to remain thereafter upon the land he claims(k).

A party who went upon land reserved under a railroad grant, with assurance from the company that he could purchase it of them, was not wrongfully upon the land, when the Department decided that it was not included within the reservation to the company, and had ordered the same restored to settlement.

Where a pre-emptor is living upon and cultivating such tract of land, no specific act is necessary to constitute a new settlement after the restoration thereof to market(l).

No general or inflexible rule can be laid down in cases where parties who are residing upon land at date of cancellation of homestead entries, seek to enter the tracts embraced therein. It is simply a question of good faith, and each case must be considered upon its own merits(m).

(a) John Redington, *Land Owner*, Vol. 2, p. 19.

(b) *Ibid.*

(c) Copley *vs.* Reil, *Land Owner*, Vol. 5, p. 166.

(d) D. A. Malone, Copp's Public Land Laws, p. 311.

(e) W. R. Ledford, *Land Owner*, Vol. 5, p. 165.

(f) Gladfelter *vs.* Wren, *Land Owner*, Vol. 4, p. 42.

(g) Patrick Clasby *et al.*, *Land Owner*, Vol. 4, p. 84.

(h) Erastus Kimball, Copp's Public Land Laws, p. 295.

(i) Hensley *vs.* Ayers, *Land Owner*, Vol. 3, p. 53.

(j) Moran and Cady, *Land Owner*, Vol. 3, p. 4.

(k) Farley *vs.* Gleeson, *Land Owner*, Vol. 3, p. 38.

(l) Peterson *vs.* Kitchen, *Land Owner*, Vol. 2, p. 181.

(m) Porter *vs.* Johnson, *Land Owner*, Vol. 3, p. 37.

No specific act of settlement, after restoration of the land, is required of a settler whose every-day life can be considered a compliance with the law.

But such settler cannot embrace in his claim land not in his possession on which are the improvements of another who, like himself, has settled without the protection of law.

A homestead entry made on the day of restoration, of a tract not in the possession of the pre-emptor, is a legal appropriation of the land as soon as it is subject to entry(a).

The land to which a claimant may have a right of possession, although for some valid reason not the actual possession, must be land to which he can assert a valid claim under the pre-emption law.

A tract which has been enclosed, occupied and cultivated by a settler for years, and has been improved by him, is not subject to appropriation by another under the pre-emption laws even though the occupant has no legal claim to the same under the provisions of the statute(b).

Where a party has made settlement and filing, and is thereafter sentenced to the penitentiary for a period which will expire after the time in which proof and payment should be made, such proof and payment may be made by a guardian or trustee(c).

c. SALE AND FORFEITURE.

Where an incomplete pre-emption claim is sold or abandoned, the right is forfeited, and where filing, proof and payment are not made as required, the claim is liable to forfeiture; but a sale should not be held to work a forfeiture unless it is voluntary, and made while the party is in possession of his mental faculties(d).

A written contract for the sale of growing trees which the purchaser was to cut and remove as soon as the vendor obtained patent is a contract prohibited by the pre-emption law(e).

A homestead or pre-emption settler is permitted to cut trees upon his land, for building, fencing, repairs and firewood. Should there be no trees growing upon his land, he may cut trees growing upon the mountain slopes, but only for domestic uses.

A verbal sale when accompanied by delivery of the land forfeits the pre-emption right(f).

Parole evidence is admissible to defeat a deed or written contract on the ground of illegal consideration, duress or fraud. A deed absolute on its face may be shown to be a mortgage(g).

Mortgages which have been released are no bar to the completion of a pre-emption claim(h).

There is no forfeiture declared because of a failure on the part of a pre-emption settler to make proof and payment for unoffered land within thirty months from the time when he should have filed his declaratory statement —provided no adverse settler has made settlement on the land and complied with the law(i).

The question of abandonment is discussed at considerable length in Johnson *vs.* Graybill, *Land Owner*, Vol. 2, p. 100.

II. Pre-emption Homesteads.

When an individual has made settlement on a tract and filed his pre-emption declaration therefor, he may change his filing into a homestead, if he continues in good faith to comply with the pre-emption laws until the change is effected; the time during which the party has resided upon and claimed the land as a pre-emptor will be credited upon the period of residence and cultivation required under the homestead laws. In so doing he is required in his first homestead affidavit to set forth the fact of a previous pre-emption filing, the time of actual residence thereunder, and the intention to claim the benefit of such time. In making final proof on his homestead entry he is required, in addition to the usual affidavit and proof, to make the "pre-emption homestead affidavit," below:

(a) Corrigan *vs.* Ryan, *Land Owner*, Vol. 4, p. 42. (b) Clow *vs.* Paterson, *Land Owner*, Vol. 5, p. 147.

(c) J. T. Benson, *Land Owner*, Vol. 6, p. 108.

(d) Catala *vs.* Austin *et al.*, Copp's Public Land Laws, p. 313.

(e) Webster *vs.* Sutherland, Copp's Public Land Laws, p. 312. Instructions, *Land Owner*, Vol. 1, p. 163.

(f) Hudsonpiller *vs.* Queen, Copp's Public Land Laws, p. 312.

(g) Philip Waldron, Copp's Public Land Laws, p. 313.

(h) Shuster *vs.* Grady, *et al.*, Copp's Public Land Laws, p. 314.

(i) Shreves *vs.* Eaton, *Land Owner*, Vol. 5, p. 165.

PRE-EMPTION HOMESTEAD AFFIDAVIT.

(To be used in making final proof in cases where pre-emption filings have been changed to homestead entries under the acts of March 3, 1877, and May 27, 1878.)

I, —— ——, having changed my pre-emption declaratory statement No. ——, filed the —— day of ——, 18—, alleging settlement the —— day of ——, 18—, for the —— section No. ——, in township No. ——, of range No. ——, to homestead entry original No. ——, district of lands subject to entry at ——, under the acts of Congress approved March 3, 1877, and May 27, 1878, do solemnly swear that I have never had the benefit of any right of pre-emption under section 2259 of the Revised Statutes of the United States; that I have not heretofore filed a pre-emption declaratory statement for another tract of land; that I was not the owner of three hundred and twenty acres of land in any State or Territory of the United States at any time during the above-mentioned period of settlement under the pre-emption statutes; that I did not remove from my own land within the State of —— to make the settlement above referred to; nor have I settled upon and improved said land to sell the same on speculation, but in good faith to appropriate it to my exclusive use or benefit; and that I did not, during the period of pre-emption settlement above mentioned, directly or indirectly, make any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which I might acquire from the Government of the United States would inure, in whole or in part, to the benefit of any person except myself.

—— ——.

I, —— ——, of the Land Office ——, do hereby certify that the above affidavit was subscribed and sworn to before me this —— day of ——, 18—.

—— ——.

A person in possession of a valid pre-emption claim may at any time commute it to a homestead, and in so doing his right will relate back to the date of his settlement, to the exclusion of intervening adverse claims(a)

Where a party did not change his pre-emption filing to a homestead entry, but voluntarily relinquished the same and made timber culture entry subsequent to the relinquishment of his pre-emption right, the claimant cannot be allowed the benefits of the act of May 27, 1878, in computing the five years' residence required from the date of settlement, as alleged in his relinquished pre-emption filing(b).

The right to transmute a pre-emption filing to a homestead entry is one belonging only to the party making the filing. Even in her own name, acting independently of the pre-emption filing of her husband, a widow should not be allowed to make a homestead on land embraced in said filing, until it shall appear satisfactorily that the heirs do not intend to prove up.

A widow cannot be considered an heir unless declared such by special law of the State(c).

Where applications to transmute from pre-emption filings to homestead entries, though made prior to March 3, 1877, are not acted upon until after the approval of this act, such act is held to apply, and the time during which the parties complied with the pre-emption laws is applied on the homestead entry(d).

There is nothing in the law of March 3, 1877, authorizing the pre-emptor to change his filing to a homestead entry with credit for the time he has resided on the land claimed, which requires his personal attendance at the local office(e).

An application to transmute a pre-emption filing to a timber culture entry cannot be allowed(f).

A qualified party may transmute his pre-emption filing to a homestead entry, as to the land not in dispute; and where, as in this case, both parties settled prior to survey and have valuable improvements on one legal subdivision or lot, such lot may be entered jointly(g)

(a) Ross *vs.* Sinclair, Copp's Public Land Laws, p. 318.

(b) E. L. Crandall, *Land Owner*, Vol. 5, p. 180.

(c) Sarah E. Cowen, *Land Owner*, Vol. 5, p. 167.

(d) Chase *vs.* Buron *et al.*, *Land Owner*, Vol. 4, p. 84.

(e) J. T. Farley, *Land Owner*, Vol. 5, p. 7.

(f) I. G. Beam, *Land Owner*, Vol. 3, p. 179.

(g) Yeackle *vs.* Hart, *Land Owner*, Vol. 6, p. 108.

CHAPTER V.

TIMBER CULTURE.

The object of the timber culture law is to promote the growth of timber by providing a method of acquiring title to public lands on condition that timber shall be grown thereon to an extent and for a period of time therein specified. The wisdom of this law is seen in the increased annual rainfall in regions heretofore subject to frequent droughts.

a. WHO MAY APPLY AND FOR WHAT KIND OF LAND.

Any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws of the United States, may make a timber culture entry without regard to how much land he already owns.

A single woman, duly qualified, who has made an entry under the timber culture act, and subsequently marries, is not thereby debarred from acquiring title to the land(a).

Registers and Receivers, and their clerks and employees, and all persons intimately or confidentially connected with such officers or employees, are prohibited from making entries of the public lands at the offices with which they are connected(b).

Not more than one hundred and sixty acres in any one section can be entered, and no person can make more than one entry.

The rulings of the General Land Office restricting entries under the timber culture laws to "technical quarter sections," have been so far modified as to permit entries of parts of a section in a compact body, not to exceed one hundred and sixty acres(c).

A few scattering willows and stumps will not characterize land as timber within the meaning of the timber culture act(d).

A few trees or bushes do not characterize the land upon which they are found, as timber land within the meaning of the statute(e).

Land through which passes a stream of water, upon the banks of which is a growth of "scrub" timber, is subject to entry under the timber culture laws(f).

An eighty acre tract upon which trees are growing, many of them more than five inches in diameter, is not subject to entry under the timber culture laws(g).

Where a party applies to enter under the timber culture laws, land which appears upon the township plat as already timbered, and is informed that he must disprove such apparent character, this application reserves the mentioned tracts for a reasonable time from further disposition to any other claimant(h).

Land covered by an invalid State selection may be entered under the provisions of the timber culture act if otherwise subject thereto(i).

Prairie lands, or lands not prairie but naturally devoid of timber, are subject to the operation of the timber culture laws(j).

(a) G. M. King, *Land Owner*, Vol. 2, p. 39.

(b) State of Nebraska *vs.* Dorrington *et al.*, *Land Owner*, Vol. 3, p. 122.

(c) Frederick Brau, *Land Owner*, Vol 3, p. 172. (d) Adam Windolph, *Land Owner*, Vol. 1, p. 92.

(e) W. E. Fosnat, Copp's Public Land Laws, p. 653.

(f) Lampson *vs.* Dunham, Copp's Public Land Laws, p. 655.

(g) Linden *vs.* Gray, *Land Owner*, Vol. 3, p. 181. (h) Lamb *vs.* Reeser, *Land Owner*, Vol. 3, p. 73.

(i) State of Nebraska *vs.* Dorrington *et al.*, *Land Owner*, Vol. 3, p. 122.

(j) Luce and Porter, *Land Owner*, Vol. 3, p. 71.

b. APPLICATION, ENTRY AND PROOF.

The application to enter is in the following form:

APPLICATION No. ——.

I, —— ——, hereby apply to enter, under the provisions of the act of June 14, 1878, entitled "An Act to amend an act entitled 'An Act to encourage the growth of timber on the Western Prairies,'" the —— of section ——, in township ——, of range ——, containing —— acres.

—— ——.

LAND OFFICE AT ——,
(*Date*) ——, 18—.

I, —— ——, Register of the land office, do hereby certify that the above application is for the class of lands which the applicant is legally entitled to enter under the provisions of the timber culture act of June 14, 1878; that there is no prior valid adverse right to the same, and that the land therein described, together with the lands heretofore entered under this act and the acts of which this is amendatory in the said section, does not exceed one-quarter thereof.

—— ——, *Register*.

This must be accompanied by the following affidavit, which may be made before the Register or the Receiver, or the clerk of some court of record, or officer authorized to administer oaths, actually within the district where the land is situated.

AFFIDAVIT.

LAND OFFICE AT ——,
(*Date*) ——, 18—

I, —— ——, having filed my application No. ——, for an entry under the provisions of an act entitled "An Act to amend an act entitled 'An Act to encourage the growth of timber on the Western Prairies,'" approved June 14, 1878, do solemnly —— that I am the head of a family [or over twenty-one years of age], and a citizen of the United States [or have declared my intention to become such]; that the section of land specified in my said application is composed exclusively of prairie lands, or other lands devoid of timber; that this filing and entry is made for the cultivation of timber, and for my own exclusive use and benefit; that I have made the said application in good faith, and not for the purpose of speculation, or directly or indirectly for the use or benefit of any other person or persons whomsoever; that I intend to hold and cultivate the land, and to fully comply with the provisions of this said act; and that I have not heretofore made an entry under this act, or the acts of which this is amendatory.

—— ——.

Sworn to and subscribed before me this —— day of ——, 18—.

—— ——.

Whereupon the Receiver will issue his receipt for the money received by him, giving the applicant a duplicate thereof:

Receiver's Receipt, }
No. ——. }

{ Application,
{ No. ——,

RECEIVER'S OFFICE ——,
(*Date*) ——, 18—.

Received of —— —— the sum of —— dollars —— cents, being the amount of fee and compensation of Register and Receiver for the entry of —— of section ——, in township ——, of range ——, under the first section of the act of Congress approved June 14, 1878, entitled, "An Act to amend an act entitled 'An Act to encourage the growth of timber on the Western Prairies.'"

$—. —— ——, *Receiver*.

The fees for entries are $10 if the tract applied for is more than eighty acres; and $5 if it is eighty acres or less; and the commissions of Registers and Receivers on all entries (irrespective of area) are $4 ($2 to each) at the date of entry, and a like sum at the date of final proof.

No distinction is made, as to area or the amount of fee and commissions, between minimum and double-minimum lands. A party may enter one hundred and sixty acres of either on payment of the prescribed fee and commissions.

Entries may be made of subdivisions of different quarters of the same section; provided that each entry shall form a compact body, not exceeding one hundred and sixty acres, and that not more than that quantity shall be entered in any one section.

The fifth section of the act approved March 3, 1857, entitled "An Act in addition to an act to punish crimes against the United States, and for other purposes," is extended to all oaths, affirmations, and affidavits required or authorized by the timber culture law.

No land acquired under the provisions of this law will in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor.

The affidavit required of applicants must be made at the time the application is filed, except when made before an officer authorized to use an official seal, when a reasonable time should be allowed for transmission to the local land office(*).

The filing of the application and affidavit, with payment of fees, are essential prerequisites to

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(*) Hiram Campbell, *Land Owner*, Vol. 3, p. 21.

the allowance of a timber culture entry, and he who first complies with the conditions obtains priority of right.

A prior verbal application, unaccompanied by the written application, etc., gives no preference right, as it is not the duty of the local officers to prepare the necessary papers(a).

An application was rejected because the affidavit upon which it was based was executed while another timber culture entry covered the land in question(b).

There is no provision of law for the repayment of the fee and commissions paid on a timber-culture entry. But a new entry may be made with credit for the money paid on a canceled entry(c).

A timber-culture settler may relinquish a portion of the land embraced in his entry, and hold the remainder(d).

There is no provision of law for a second timber culture entry(e).

An application to transmute a pre-emption filing to a timber culture entry cannot be allowed(f).

In the case of the death of a party having made a timber culture entry, who leaves a widow and heirs, his rights under the entry go to the heirs and not to the widow, contrary to the rule which prevails in similar cases arising under the homestead laws(g).

The term "legal representatives," as used in the timber culture act, does not include a party acting under a power of attorney.

The heirs or legal representatives of a deceased party, who had made a timber culture entry, may continue the cultivation of the trees, and on compliance with the law will receive a patent for the land(h).

But in case the trees are not cultivated by the heirs, the entry will be liable to cancellation.

A prior pre-emption settlement will defeat a timber culture entry(i).

A pre-emptor's right to land attaches from date of settlement, and a timber culture claimant's from date of entry at the local office.

Where a pre-emptor has falsely alleged that he settled prior to the date of the timber culture entry, two courses may be pursued by the timber culture claimant to protect his rights.

1. He may wait until the pre-emptor proves up, when the actual date of settlement may be shown, or(j)

2. He may present to the local officers his affidavit calling in question the alleged date of settlement, and asking that a hearing be ordered to determine the respective rights of the parties in interest(*ib*).

A party cannot enter under the homestead law a part of the land embraced in his timber culture entry. He may relinquish his timber culture entry, in whole or in part; and upon cancellation thereof, he may, if he is the first legal applicant, enter any part of the land as a homestead(k).

The ratio of area required to be broken, planted, etc., is *one-sixteenth* of the land embraced in the entry, except where the entered tract is less than forty acres, in which case it is one-sixteenth of forty acres. The party making an entry of a quarter section, or one hundred and sixty acres, is required to break or plow five acres covered thereby during the first year, and five acres in addition during the second year. The five acres broken or plowed during the first year he is required to cultivate by raising a crop, or otherwise, during the second year, and to plant in timber, seeds, or cuttings, during the third year. The five acres broken or plowed during the second year he is required to cultivate by raising a crop, or otherwise, during the third year, and to plant in timber, seeds, or cuttings, during the fourth year. The tracts embraced in entries of a less quantity than one-quarter section are required to be broken or plowed, cultivated, and planted in trees, tree-seeds, or cuttings, during the same periods, and to the same extent, in proportion to their total areas, as are provided for in entries of a quarter section.

(a) Daymude *vs.* McNeely, *Land Owner*, Vol. 3, p. 38.

(b) John Key, *Land Owner*, Vol. 4, p. 134.

(c) Ludwig Hartz, *Land Owner*, Vol. 2, p. 100.

(d) O. A. Avery, *Land Owner*, Vol. 2, p. 133.

(e) G. L. Wood, *Land Owner*, Vol. 3, p. 73.

(f) I. G. Beam, *Land Owner*, Vol. 3, p. 179.

(g) Wm. Robertson, *Land Owner*, Vol. 4, p. 160.

(h) G. W. Knise, *Land Owner*, Vol. 2, p. 117.

(i) W. T. Nicholas, *Land Owner*, Vol. 1, p. 92

(j) L. O. Straud, *Land Owner*, Vol. 3, p. 3.

(k) H. La French, *Land Owner*, Vol. 4, p. 85.

In case the trees, seeds, or cuttings, are destroyed by grasshoppers, or by extreme and unusual drouth, for any year or term of years, the time for planting such trees, seeds, or cuttings, is extended one year for every such year that they are so destroyed: *Provided*, the party before he or she becomes entitled to such extension of time, files with the Register and the Receiver of the proper land office an affidavit, corroborated by two witnesses, setting forth the destruction of the trees, etc., and that, in consequence of such destruction, he or she is compelled to ask an extension of time.

No final certificate shall be given, or patent issued, for the land entered, until the expiration of eight years from the date of entry; and if, at the expiration of such time, or at any time within five years thereafter, the person making the entry, or, if he or she be dead, his or her heirs or legal representatives, shall prove by two credible witnesses that he or she or they have planted, and, for not less than eight years, have cultivated and protected the required quantity and character of trees; that not less than twenty-seven hundred trees were planted on each acre, and that at the time of making proof there shall be then growing at least six hundred and seventy-five living and thrifty trees to each acre, they shall be entitled to receive a patent for such tract of land.

Parties who have already made entries under the timber-culture acts of March 3, 1873, and March 13, 1874, of which the act of June 14, 1878, is amendatory, may complete the same by compliance with the requirements of the latter act; that is, they may do so by showing, at the time of making their final proof, that they have had under cultivation, as required by the act of June 14, 1878, an amount of timber sufficient to make the number of acres required thereby, being one-fourth the number required by the former acts. It will be sufficient for this if the parties show that of the entire area embraced in their respective entries they have cultivated in timber for the period required by the act of 1878 an area not less than one-sixteenth part; and that they have then growing upon such cultivated area the prescribed number of "living and thrifty trees," *viz.*, 6,750, where the entry is for 160 acres; 3,375, where it is for 80 acres; and 1,688, where it is for 40 acres or less.

The requirements of law pertaining to a timber culture entry of 120 acres are the same as for an entry of 160 acres, less one-fourth part, or as for an 80 acre tract and a 40 acre tract(a).

Parties who have made timber-culture entries cannot commute by paying the government price per acre for the land. Full compliance with the law for the full time must be shown before title can pass to the claimants(b).

The timber culture laws in offering a land bounty for the production of timber on the western prairies had in view not fruit trees or shrubbery, or trees of subordinate importance, but the object was to encourage the growth of what are known as "timber trees," comprising oak, ash, elm, and such other trees as are commonly used in ship and house building. The osage orange, although it attains a large growth in favorable localities, and is much used elsewhere for hedges, its wood being serviceable also for various purposes, is not of the class commonly used for building, to encourage the growth of which the bounty is offered, and hence its cultivation would not satisfy the legal requirements(c).

The planting and cultivation in Southern California of the Eucalyptus, or Australian gum-tree, is a compliance with the timber-culture laws(d).

The cottonwood tree is included in the list of timber trees(e).

Where a party made a timber culture entry of one hundred and sixty acres, and has done breaking and planting sufficient to comply with the law in case of an entry of eighty acres, he will be allowed to relinquish the half of his entry, and retain the part on which the trees planted are situated(f).

The fact that a previous claimant had complied with the timber culture law in the matter of breaking and planting, does not excuse a subsequent party who makes entry of the same land from complying with the timber culture law(a).

(a) Dodge & Chace, *Land Owner*, Vol. 3, p. 72. (b) L. R. Moyer, *Land Owner*, Vol. 2, p. 39.
(c) J. M. Easter, *Land Owner*, Vol. 4, p. 162. Nicholas Noell, *Land Owner*, Vol. 6, p. 112.
(d) Amos Harris, *Land Owner*, Vol. 3, p. 71. (e) Instructions, *Land Owner*, Vol. 6, p. 153.
(f) W. D. Gould, *Land Owner*, Vol. 4, p. 85.

Where a party enters for timber culture land, which was formerly broken up and cultivated, he is not required to do the prescribed breaking on land not before broken, but he may go over the land formerly broken and again break it and prepare it for the reception of the trees, to the extent of area and in the periods prescribed(b).

A strict compliance with the timber culture law in the matter of breaking, cultivating, etc., is required.

Where timber culture improvements were on land prior to the entry thereof under the timber culture statutes, such improvements must not be credited to the party making the entry(c).

A party may elect to break the soil and plant the trees sooner than the timber culture act requires(d).

A claimant has the right to select out of the whole tract entered the particular part to be cultivated in timber(e)

Where a timber culture claimant dies, having failed to comply with the timber culture law, his heirs have no rights in the premises embraced in the entry, and the entry should be canceled upon a proper showing(f).

c. CONTEST AND CANCELLATION.

If, at any time after one year from the date of entry, and prior to the issue of a patent therefor, the claimant shall fail to comply with any of the above requirements, his entry will become liable to a contest in the manner provided in homestead cases, and upon due proof of such failure, the entry will be canceled, and the land become again subject to entry under the homestead laws, or by some other person under the timber culture law.

A contesting party may place his application on file in the local land office with his affidavit, initiating a contest against an entry already made, but whether such application entitles such contestant to the privilege of making an entry depends upon the testimony at the trial, showing that the first party has not complied with the law. If the testimony does show non-compliance with the law, then, upon cancellation of the first entry, the contestant will be allowed to perfect an entry for himself(g).

No preference right is granted the contestant unless his application accompanies his affidavit initiating the contest.

An entry made by the preferred claimant under this act takes date from the time the application and affidavit of contest are filed in the local office(h).

There is no provision of law to allow a party the preference right to enter land embraced in a timber culture entry, who files a relinquishment of such entry.

Where a contest has been regularly initiated against a timber culture entry by a party who filed his affidavit and application to enter, such party will have the preference right of entry, if the first entry is canceled on account of a relinquishment thereof(i).

Lands covered by a timber culture entry subsequently canceled may be entered under the preemption laws, though the preference right is always with the homestead or timber culture claimant who successfully contests the former entry(j).

The requisites of an affidavit for a continuance on the ground of absence of a witness, are that it shows, 1. The name and residence of the witness and the materiality of his testimony; 2. The exercise of proper diligence to procure the attendance of the witness; and 3. That the witness can be had at the time to which it is sought to have the trial deferred(k).

The question of sufficiency of notice in contested land claims must be one of fact. Information which makes it the duty of a party to make inquiry, and shows where it may be effectually made, is notice of all facts to which such inquiry might have led. But a party thus put on inquiry is allowed a reasonable time to make it, before he is affected with notice(a).

(a) M. G. Lee, *Land Owner*, Vol. 4, p. 85.

(b) D. D. Hoag, *Land Owner*, Vol. 4, p. 162.

(c) Gepner *vs.* Miller, *Land Owner*, Vol. 3, p. 180.

(d) O. A. A. Gardner, Copp's Public Land Laws, p. 653.

(e) Wilson *vs.* Simmons, *Land Owner*, Vol. 5, p. 87.

(f) Haynes *vs.* Metcalfe, *Land Owner*, Vol. 4, p. 134.

(g) Isaac Atkinson, *Land Owner*, Vol. 2, p. 180.

(h) Sherman *vs.* Atkins, *Land Owner*, Vol. 4, p. 21. W. L. Burchar, *Land Owner*, Vol. 3, p. 72.

(i) Barrett *vs.* Maybury, *Land Owner*, Vol. 4, p. 77.

(j) Tewksbury *vs.* McPeck, *Land Owner*, Vol. 4, p. 54.

(k) Wilson *vs.* Simmons, *Land Owner*, Vol. 5, p. 87.

The contestant in a timber culture entry must defray the expenses incident to the contest. A cross examination for the purpose of creating expense and delay should be arrested. Sufficiency of notice is a matter of fact(b).

In contests in timber culture entries, the required affidavit must be filed and the published notice must be properly prepared(c).

The expenses incident to timber culture and homestead contests must be defrayed by the contestants. Where rehearings are ordered by the General Land Office, an equitable adjustment of the expenses is allowed to be made by the local officers.(d).

In case a timber culture entry is abandoned, the land covered by such entry is *immediately* subject to entry by another party under the timber culture or homestead laws, but the party applying must give the prescribed notice and the adverse party be allowed a hearing, as in other contested cases(e).

A party cannot enter under the homestead law a part of the land embraced in his timber culture entry. He may relinquish his timber culture entry, in whole or in part; and upon cancellation thereof, he may, if he is the first legal applicant, enter any part of the land as a homestead(f).

There is no provision of law for the repayment of the fee and commissions paid on a timber culture entry. But a new entry may be made with credit for the money paid on a canceled entry(g).

(a) McCarter vs. Dunn, *Land Owner*, Vol. 5, p. 21.

(b) *Ibid.*

(c) McCarter vs. Dunn, *Land Owner*, Vol. 4, p. 76.

(d) *Ibid.*

(e) Instructions, *Land Owner*, Vol. 5, p. 147.

(f) Henry La French, *Land Owner*, Vol. 4, p. 85.

(g) Ludwig Hart, *Land Owner*, Vol. 2, p. 100.

CHAPTER VI.

MISCELLANEOUS.

I. Townsites.

The President is authorized to reserve from the public lands, whether surveyed or unsurveyed, townsites on the shores of harbors, at the junction of rivers, important portages, or any natural or prospective centers of population.

The old method of obtaining title to townsite lands is as follows:

When, in the opinion of the President, the public interests require it, it shall be the duty of the Secretary of the Interior to cause any of such reservations, or part thereof, to be surveyed into urban or suburban lots of suitable size, and to fix by appraisement of disinterested persons their cash value, and to offer the same for sale at public outcry to the highest bidder, and thence afterward to be held subject to sale at private entry according to such regulations as the Secretary of the Interior may prescribe; but no lot shall be disposed of at public sale or private entry for less than the appraised value thereof. And all such sales shall be conducted by the Register and Receiver of the land office in the district in which the reservation may be situated, in accordance with the instructions of the Commissioner of the General Land Office.

In any case in which parties have already founded, or may hereafter desire to found, a city or town on the public lands, it may be lawful for them to cause to be filed with the recorder for the county in which the same is situated, a plat thereof, for not exceeding six hundred and forty acres, describing its exterior boundaries according to the lines of the public surveys, where such surveys have been executed; also giving the name of such city or town, and exhibiting the streets, squares, blocks, lots, and alleys, the size of the same, with measurements and areas of each municipal subdivision, the lots in which shall each not exceed four thousand two hundred square feet, with a statement of the extent and general character of the improvements; such map and statement to be verified under oath by the party acting for and in behalf of the persons proposing to establish such city or town; and within one month after such filing there shall be transmitted to the General Land Office a verified transcript of such map and statement, accompanied by the testimony of two witnesses that such city or town has been established in good faith, and when the premises are within the limits of an organized land district, a similar map and statement shall be filed with the Register and Receiver; and at any time after the filing of such map, statement, and testimony in the General Land Office, it may be lawful for the President, to cause the lots embraced within the limits of such city or town to be offered at public sale to the highest bidder, subject to a minimum of ten dollars for each lot; and such lots as may not be disposed of at public sale shall thereafter be liable to private entry at such minimum, or at such reasonable increase or diminution thereafter as the Secretary of the Interior may order from time to time, after at least three months' notice, in view of the increase or decrease in the value of the municipal property. But any actual settler upon any one lot, as above provided, and upon any additional lot in which he may have substantial improvements, shall be entitled to prove up and purchase the same as a pre-emption, at such minimum, at any time before the day fixed for the public sale.

When such cities or towns are established upon unsurveyed lands, it may be lawful, after the extension thereto of the public surveys, to adjust the extension limits of the premises according to those lines, where it can be done without interference with rights which may be vested by sale. Patents for all lots so disposed of at public or private sale are issued as in ordinary cases.

If within twelve months from the establishment of a city or town on the public domain, the parties interested refuse or fail to file in the General Land Office a transcript map, with the statement and testimony called for above, the Secretary of the Interior will cause a survey and plat to be made of such city or town, and thereafter the lots in the same shall be disposed of as required by such provisions, with this exception, that they shall each be at an increase of fifty per centum on the minimum of ten dollars per lot.

The preceding method is not much used. The better one is as follows:

In case the town is incorporated, the corporate authorities thereof, and, if not incorporated, the judge of the county court for the county in which the town is situated, may enter at the proper United States land office, and at the minimum price of $1.25 per acre, the land so settled and occupied for townsite purposes, in trust for the occupants thereof, according to their respective interests; the execution of which trust, as to the disposal of the lots in the town, and the proceeds of the sales thereof, to be conducted under such regulations as may be prescribed by the legislature of the State or Territory in which the same may be situated.

The entry of the land must be made, or a declaratory statement of the purpose of the inhabitants to enter it as a townsite must be filed with the Register of the proper land office, prior to the commencement of the public sale of the body of land in which it is included, and the entry or declaratory statement must include only such land as is actually occupied by the town, and the title to which is in the United States; but in any Territory in which a land office may not have been established, such declaratory statements may be filed with the surveyor-general of the surveying district in which the lands are situated, who shall transmit the same to the General Land Office.

Where the number of inhabitants is one hundred and less than two hundred, not exceeding three hundred and twenty acres can be embraced in an entry; where the population is more than two hundred and less than one thousand, not exceeding six hundred and forty acres; and where the inhabitants number one thousand and over, not exceeding twelve hundred and eighty acres; and for each additional one thousand inhabitants, not exceeding five thousand in all, a further grant of three hundred and twenty acres is allowed.

If upon surveyed lands, the entry shall in its exterior limits be made in conformity to the legal subdivisions of the public lands authorized by law.

When it is desired to enter a townsite found upon the *unsurveyed* public lands, a written application should be presented to the surveyor-general of the proper district for a survey, and the amount estimated by him as sufficient to cover the said cost and expenses must be deposited with any Assistant United States Treasurer or designated depositary in favor of the United States Treasurer, the depositor taking a duplicate certificate of deposit, one to be filed with the surveyor-general, and the other retained by the depositor. On receiving such certificate, showing that the requisite sum has been deposited in a proper manner to pay for the work, the surveyor-general will transmit to the Register and Receiver of the district land office his certificate of such payment having been made, and will contract with a competent United States deputy surveyor, and have the survey made and returned in the same manner as other public surveys, after which the lands embraced within the site may be entered, or filed upon, as in the case of townsites upon surveyed lands.

All military and other reservations of the United States, private grants, and valid mining claims are excluded from the operation of these townsite laws. In patents issued thereunder it is expressly declared as follows, viz: "No title shall be hereby acquired to any mine of gold, silver, cinnabar, or copper, or any valid mining claim or possession held under existing laws of Congress."

The amount of land that can be reserved from pre-emption and homestead entry, by reason of the existence or incorporation of a town upon the public domain, is two thousand five hundred and sixty acres, unless the excess shall "be actually settled upon, inhabited, improved, and used for business and municipal purposes."

Pre-emption and homestead entries already made within the corporate limits of a town are confirmed, the entries being regular in all respects; *Provided*, it shall be satisfactorily shown that the lands so entered are "not settled upon or used for any municipal purpose, nor devoted to any public use of such town."

When the corporate limits of a town embrace lands in excess of the maximum quantity allowed, the proper authorities may select those portions that are actually occupied, used, and improved for municipal purposes, which lands shall be reserved from pre-emption and homestead entry, and the residue will be restored, or become subject to such settlement and entry. This selection must be made within sixty days from notice; and in default thereof, a hearing will be ordered and testimony taken as to the condition of the land, and such portion set apart as shall appear to be within the meaning of the act.

Additional entries may be made by towns, where entries have already been made, in cases in which an increase in the number of inhabitants would entitle them to an entry of a larger area; such entries, however, to be within the maximum amount, or two thousand five hundred and sixty acres.

The inhabitants of these towns or cities are limited, however, to one or the other of the modes provided in the law, and cannot commence proceedings under both systems.

II. Railroad Grants.

a. HOMESTEAD AND PRE-EMPTION CLAIMS IN GENERAL.

Under the provisions of the acts of Congress granting lands to aid in the construction of railroads, wherein there are excepted from such grants the lands to which a valid pre-emption or homestead right had attached at the time when the grant may have become effective, the Land Department has decided as follows:

1. A homestead entry, made by a person duly qualified, which is in all respects regular and legal, excepts the land covered thereby from the operation of a railroad grant attaching during the existence of such entry.

Under this ruling it is no longer necessary to hold investigations for the purpose of inquiring into the period of residence of the claimant, his acts respecting settlement upon and cultivation of the tract, etc.; but, if the entry appears upon its face to be valid, no hearing will be ordered.

In case allegations are presented by a railroad company tending to show fraud or irregularity in the initiation of the entry, proper opportunity will be afforded for the presentation of proof thereof.

The law (section 2289, United States Revised Statutes) requires that a person making a homestead entry must be over twenty-one years of age, or the head of a family, and a citizen of the United States, or have declared his intention to become such; and, at the time of making such entry, he must swear that it is made for the purpose of cultivation, and not directly or indirectly for the use and benefit of any other person.

The foregoing regulation has reference only to lands within the *granted* limits of railroads, the Supreme Court of the United States having recently decided, in the case of Michael Ryan *vs.* Central Pacific Railroad Company, that the right to *indemnity* lands does not attach until those lands are regularly selected. Where, however, entries or filings have been admitted upon lands within the indemnity limits of any railroad grant, they will be allowed to stand awaiting the final adjustment of such grant, when, if the tracts are not required in satisfaction thereof, the entries or filings may be consummated.

2. A pre-emption claim which may have existed to a tract of land at the time of the attachment of a railroad grant, if subsequently abandoned and not consummated, even though in all respects legal and *bona fide*, will not defeat the grant, it being held that upon the failure of such claim the land covered thereby goes to the grant as of the date when the grant became effective.

Under this ruling, no hearings can be ordered for the purpose of ascertaining the facts respecting the settlement, occupation, improvement of the land, etc., by such pre-emption claimant, for even if such facts were established, still, under the decision, the land inures to the grant.

b. RELINQUISHMENTS IN FAVOR OF SETTLERS.

By an act of Congress approved June 22, 1874, (18 Stat., p. 194,) it is provided:

That in the adjustment of all railroad land grants, whether made directly to any railroad company or to any State for railroad purposes, if any of the lands granted be found in the possession of an actual settler whose entry or filing has been allowed under the pre-emption or homestead laws of the United States subsequent to the time at which, by the decision of the land office, the right of said road was declared to have attached to such lands, the grantees, upon a proper relinquishment of the lands so entered or filed for, shall be entitled to select an equal quantity of other lands in lieu thereof from any of the public lands not mineral, and within the limits of the grant, not otherwise appropriated at the date of selection, to which they shall receive title the same as though originally granted. And any such entries or filings thus relieved from conflict may be perfected into complete title as if such lands had not been granted: *Provided,* That nothing herein contained shall in any manner be so construed as to enlarge or extend any grant to any such railroad, or to extend to lands reserved in any land grant made for railroad purposes: *And provided further,* That this act shall not be construed so as in any manner to confirm or legalize any decision or ruling of the Interior Department under which lands have been certified to any railroad company, when such lands have been entered by a pre-emption or homestead settler after the location of the line of the road, and prior to the notice to the local land office of the withdrawal of such lands from market.

An inducement is thus offered to such railroad companies as may be found entitled to lands held by actual settlers under the pre-emption or homestead laws, to relinquish in favor of the settlers, and receive other lands in lieu of those surrendered.

Upon the filing of such relinquishment, the General Land Office is authorised to recognize the filing or entry of the settler in the same manner as if the land had not been granted to the railroad company.

When the superior right of the company is ascertained, and it is found that the claim of the settler is such that it would be admitted were the railroad claim extinguished, the General Land Office will, in all practicable cases, direct the attention of the officers of the company to the fact, and request an explicit answer whether or not the land will be relinquished.

At the same time it will be well for the party interested to seek for himself the relief indicated by dreict application to the railroad authorities, and thereby aid in securing a speedy and satisfactory adjustment.

c. CONFIRMATION OF PRE-EMPTION AND HOMESTEAD CLAIMS.

On the 21st of April, 1876, Congress, by an act entitled "An act to confirm pre-emption and homestead entries of public lands within the limits of railroad grants, in cases where such entries have been made under the regulations of the Land Department," declared:

That all pre-emption and homestead entries, or entries in compliance with any law of the United States, of the public lands, made in good faith by actual settlers, upon tracts of land of not more than one hundred and sixty acres each, within the limits of any land grant, prior to the time when notice of the withdrawal of the lands embraced in such grant was received at the local land office of the district in which such lands are situated, or after their restoration to market by order of the General Land Office, and where the pre-emption and homestead laws have been complied with, and proper proofs thereof have been made by the parties holding such tracts or parcels, they shall be confirmed, and patent for the same shall issue to the parties entitled thereto.

SECTION 2. That when at the time of such withdrawal as aforesaid valid pre-emption or homestead claims existed upon any lands within the limits of any such grants which afterward were abandoned, and, under the decisions and rulings of the Land Department, were re-entered by pre-emption or homestead claimants who have complied with the law governing pre-emption or homestead entries, and shall make the proper proofs required under such laws such entries shall be deemed valid, and patents shall issue therefor to the person entitled thereto.

SECTION 3. That all such pre-emption and homestead entries which may have been made by permission of the Land Department, or in pursuance of the rules and instructions thereof, within the limits of any land grant, at a time subsequent to expiration of such grant, shall be deemed valid, and a compliance with the laws and the making of the proof required shall entitle the holder of such claim to a patent therefor.—(19 *Stat., p.* 35.)

It is required that every application under this act shall be in such form as to distinctly set forth the facts in the case, and the specific grounds upon which the party applying claims to be included in the terms of the law; and after the application shall have been filed, the applicant shall be allowed, to make proof of compliance with the pre-emption or homestead laws as provided in this act.

Applications under this act must, in all cases, be made to the local land officers of the district within which the land claimed is situated, and the proof required must be taken before them, or before any person authorized by law to take the same.

No person shall be deemed to have lost any right who failed to make the proof required by the pre-emption or homestead laws, by reason of any decision or ruling of the General Land Office prior to the approval of this act, and all such persons may now make the proof required.

III. State Lands.

The lands for sale by the several States were mostly donated to them by the general Government for internal improvements and educational purposes. Some States, like Texas, derived their public lands from a foreign power. The sixteenth and thirty-sixth sections in every township in the public land States and Territories are reserved for school purposes, and must be bought of the State, unless the settler went thereon prior to their survey in the field, when he is allowed to secure title through the United States Land Office. Parties who find from the United States officers that the lands they wish to buy belong to the State, should apply to the State land officers. (See Chapter VII.) The advantages claimed on behalf of State lands are:

1. They are mostly situated in the older portions of the State, where the settler has the advantages of railroad facilities, towns and markets, and where school houses, churches, and court houses are already built, and society fully organized. 2. They are sold on long time, in annual installments, at a moderate rate of interest. 3. The title comes directly from the State, and there can be no question as to title because of mortgages, judgments, back taxes, etc. 4. The purchaser can pay up the balance due at any time within the long period allowed by the State, and procure a deed.

IV. Private Land Claims.

These claims arise under grants of various kinds from foreign governments, from whom the United States obtained the country by treaty. The majority are of Mexican origin, while many Spanish, and some French and English, claims remain unadjusted. No one will purchase land under these unpatented grants without first securing the favorable opinion in writing of a land lawyer.

As these claims are protected by treaty stipulations, they are not defeated by railroad grants, State selections, mining locations or homestead, pre-emption, or other claims under the United States. Many fraudulent private land claims exist, and of these all settlers should beware, for they are worthless and void. Whoever invests in them wastes his money.

Immigrants will be cautious about settling upon land claimed under a foreign title, for they are likely to be expelled by the courts as trespassers, and the money they may have invested in buildings and improvements will be a total loss.

Settlers will occasionally be offered lands held under some special or private act of Congress. Only on a clear abstract of title, showing the land to be free from taxes, judgments and mortgages, made at the expense of the seller, and tracing the title back to the government or other satisfactory source, should the settler buy lands of a private individual or corporation.

V. Indian Lands.

Certain lands in the Territories and States are set apart for the use of Indians. No one is allowed to prospect for minerals or settle upon these lands. Through the united action of a delegation in Congress, the boundaries of an Indian reservation may be changed. Should a settler's improvements be included within the limits of a reservation set apart after he settled upon the land, he will receive pay from the government, usually at the full value, for whatever has been taken from him.

VI. Mines and Mineral Lands.

Lands valuable for deposits of minerals, such as fire and pottery clays, marble, asphalt, soda, sulphur, diamonds, or of the precious and common metals, are subject to sale under the mining laws. A location must be first duly made and recorded. Certain sums must be annually expended, and five hundred dollars worth of labor and improvements must be laid out on the claim before patent can be applied for. The rules and regulations and methods of procedure are fully set forth and explained in Copp's Hand-Book of Mining Law.

Mining locations defeat all railroad and state selections, if the mines and minerals were discovered and known to exist or were located prior to the time the railroad and state claims took effect. Private land claims derived from foreign governments alone can defeat mining locations.

Homestead, pre-emption and timber-culture entries cannot embrace known mineral lands, unless it be first shown that the lands sought to be entered are more valuable for agricultural purposes than for the minerals they contain.

VII. Coal Lands.

The act of Congress approved March 3, 1873, entitled "An act to provide for the sale of the lands of the United States containing coal," is as follows:

Be it enacted, etc., That any person above the age of twenty-one years who is a citizen of the United States, or who has declared his intention to become such, or any association of persons severally qualified as above, shall, upon application to the Register of the proper land office, have the right to enter, by legal subdivisions, any quantity of vacant coal lands of the United States not otherwise appropriated or reserved by competent authority, not exceeding one hundred and sixty acres to such individual person, or three hundred and twenty acres to such association, upon payment to the Receiver of not less than ten dollars per acre for such lands, where the same shall be situated more than fifteen miles from any completed railroad, and not less than twenty dollars per acre for such lands as shall be within fifteen miles of such road.

SECTION 2. That any person or association of persons severally qualified as above, who have opened and improved, or shall hereafter open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference right of entry, under the foregoing provisions, of the mines so opened and improved: *Provided*, That when any association of not less than four persons, severally qualified as in section one of this act, shall have expended not less than five thousand dollars in working and improving any such mine or mines, such association may enter not exceeding six hundred and forty acres, including such mining improvements.

SECTION 3. That all claims under section two of this act must be presented to the Register of the proper land district within sixty days after the date of actual possession and the commencement of improvements on the land by the filing of a declaratory statement therefor: *Provided*, That when the township plat is not on file at the date of such improvement, filing must be made within sixty days from the receipt of such plat at the district office: *And provided further*, That where the improvements shall have been made prior to the expiration of three months from the passage of this act, sixty days from the expiration of said three months shall be allowed for the filing of a declaratory statement, and no sales under the provisions of this act shall be allowed until the expiration of six months from the date hereof.

SECTION 4. That this act shall be held to authorize only one entry by the same person or association of persons under its provisions; and no association of persons, any member of which shall have taken the benefit of this act either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions of this act; and no member of any association which shall have taken the benefit of this act shall enter or hold any other lands under its provisions; and all persons claiming under section two hereof shall be required to prove their respective rights and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice, or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant.

SECTION 5. That in case of conflicting claims upon lands where the improvements shall be hereafter commenced, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference right to purchase; and also where improvements have already been made at the date of the passage of this act, division of the land claimed may be made by legal subdivisions, to include, as near as may be, the valuable improvements of the respective parties; and the Commissioner of the General Land Office shall be, and is hereby, authorized to issue all needful rules and regulations for carrying into effect the provisions of this act.

SECTION 6. That nothing in this act shall be construed to destroy or impair any rights which may have attached prior to its passage, or to authorize the sale of lands valuable for mines of gold, silver, or copper.

The sale of coal lands is provided for—

1. By ordinary private entry under section 1.

2. By granting a preference right of purchase based on priority of possession and improvement under section 2.

The land entered under either section must be *by legal subdivisions*, as made by the regular United States survey. Entry is confined to surveyed lands; to such as are vacant, not otherwise appropriated, reserved by competent authority, or containing valuable minerals other than coal.

Individuals and associations may purchase. If an individual, he must be twenty-one years of age and a citizen of the United States, or have declared his intention to become such citizen.

If an association of persons, each must be qualified as above.

A person is not disqualified by the ownership of any quantity of other land, nor by having removed from his own land in the same State or Territory.

Any individual may enter by legal subdivisions as aforesaid any area not exceeding one hundred and sixty acres.

Any association may enter not to exceed three hundred and twenty acres.

Any association of not less than four persons, duly qualified, who shall have expended not less than $5,000 in working and improving any coal mine or mines, may enter under section 2 not exceeding six hundred and forty acres, including such mining improvements.

The price per acre is $10 where the land is situated *more* than fifteen miles from any completed railroad, and $20 per acre where the land is *within* fifteen miles of such road.

Where the land lies *partly within* fifteen miles of such road and in *part outside* such limit, the *maximum* price must be paid for all legal subdivisions the greater part of which lies within fifteen miles of such road.

The term "completed railroad" is held to mean one which is actually constructed on the face of the earth; and lands within fifteen miles of any point of a railroad so constructed will be held and disposed of at $20 per acre.

Any duly-qualified person or association must be preferred as purchasers of those public lands on which they have opened and improved, or shall open and improve, any coal mine or mines, and which they shall have in actual possession.

Possession by agent is recognized as the possession of the principal. The clearest proof on the point of agency must, however, be required in every case, and a clearly-defined possession must be established.

The *opening and improving* of a coal-mine, in order to confer a preference right of purchase, must not be considered as a mere matter of form; the labor expended and improvements made must be such as to clearly indicate the good faith of the claimant.

These lands are intended to be sold, where there are adverse claimants therefor, to the party who, by substantial improvements, actual possession, and a reasonable industry, shows an intention to continue his development of the mines in preference to those who would purchase for speculative purposes only.

In conflicting claims, where improvement has been made *prior to March* 3, 1873, if each party make subsequent compliance with the law, the land will be awarded *by legal subdivisions*, so as to secure to each as far as possible his valuable improvements; there beingno provision in the act allowing a joint entry by parties claiming separate portions of the same legal subdivision.

In conflicts, when improvements, etc., have been commenced subsequent to March 3, 1873, or shall be hereafter commenced, priority of possession and improvement shall govern the award when the law has been fully complied with by each party. A mere possession, however, without satisfactory improvements, will not secure the tract to the first occupant when a subsequent claimant shows his full compliance with the law.

After an entry has been allowed to one party, no investigation will be had concerning it at the instance of any person, except on instructions from the General Land Office. All affidavits will be received concerning such case, and forwarded to the General Land Office, accompanied by a statement of the facts as shown by the records.

Prior to entry, it is competent for the local officers to order an investigation, on sufficient grounds, set forth under oath of a party in interest and substantiated by the affidavits of disinterested and credible witnesses.

Notice of contest, in every case where the same is practicable, must be made by reading it to the party to be cited, and by leaving a copy with him. This notice must proceed from the local office, and be signed by the Register or Receiver. Where such personal service cannot be made by reason of the absence of the party, and because his whereabouts are unknown, a copy may be left at his residence, or, if this is unknown, by posting a copy in a conspicuous place on the tract in controversy, and by publication in a weekly newspaper having the largest general circulation in the vicinity of the land (where no newspaper shall be specified by the General Land Office) for five consecutive insertions, covering a period of four weeks next prior to the trial.

Manner of obtaining title: First by private entry. The party will present the following application to the Register, and will make oath to the same:

I, ——— ———, hereby apply, under the provisions of the act approved March 3, 1873, entitled "An act to provide for the sale of the lands of the United States containing coal," to purchase ——— quarter of section ———, in township ——— of range ———, in the district of lands subject to sale at the land office at ———, and containing ——— acres; and I solemnly swear that no portion of said tract is in the possession of any other party, that I am twenty-one years of age, a citizen of the United States (or have declared my intention to become a citizen of the United States), and have never held nor purchased lands under said act, either as an individual or as a member of an association; and I do further swear that I am well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that my knowledge of said land is such as to enable me to testify understandingly with regard thereto; that there is not to my knowledge within the limits thereof any vein or lode of quartz or other rock in place bearing gold, silver, or copper, and that there is not within the limits of said land, to my knowledge, any valuable mineral deposit other than coal. So help me God.

——— ———.

To this affidavit the Register will append the usual jurat.

Thereupon the Register, if the tract is vacant, will so certify to the Receiver, stating the price, and the applicant must then pay the amount of purchase money.

The Receiver will then issue to the purchaser a duplicate receipt, and at the close of the month the Register and Receiver will make returns of the sale to the General Land Office, from whence, when the proceedings are found regular, a patent or complete title will be issued; and on surrender of the duplicate receipt such patent will be delivered, at the option of the patentee, either by the Commissioner at Washington, or by the Register at the district land office.

This disposition at private entry will be subject to any valid prior adverse right which may have attached to the same land, and which is protected by Section 2.

Second. When the application to purchase is based on a priority of possession, etc., as provided for in Section 2, the claimant must, when the township plat is on file in the district office, file his declaratory statement for the tract claimed sixty days from and after the first day of his actual possession and improvement. Sixty days, exclusive of the first day of possession, etc., must be allowed.

The declaratory statement must be substantially as follows:

I, ——— ———, being ——— years of age, and a citizen of the United States (or having declared my intention to become a citizen of the United States), and never having, either as an individual or as a member of an association, held or purchased any coal lands under the act approved March 3, 1873, entitled "An act to provide for the sale of the land of the United States containing coal," do hereby declare my intention to purchase, under the provisions of said act, the ——— quarter of section ———, in township ——— of range ———, of lands subject to sale at the district land office at ———, and that I came into possession of said tract on the ——— day of ———, A. D. 18—, and have ever since remained in actual possession continuously, and have expended in labor and improvements on said mine the sum of ——— dollars, the labor and improvements being as follows: (here describe the nature and character of the improvements;) and I do furthermore solemnly swear that I am well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that my knowledge of said land is such as to enable me to testify understandingly with regard thereto; that there is not, to my knowledge, within the limits thereof, any vein or lode of quartz or other rock in place bearing gold, silver, or copper, and that there is not within the limits of said land, to my knowledge, any valuable mineral deposit other than coal.

——— ———.

When the township plat is not on file at date of claimant's first possession, the declaratory statement must be filed within sixty days from the filing of such plat in the district office.

One year from and after the expiration of the period allowed for filing the declaratory statement is given within which to make proof and payment, but no party will be allowed to make final proof and payment, except on notice as aforesaid to all others who appear on the records as claimants to the same tracts.

A party who otherwise complies with the law may enter *after* the expiration of said year, *provided* no valid adverse right shall have intervened. He postpones his entry beyond said year at his own risk, and the Government cannot thereafter protect him against another who complies with the law, and the value of his improvements can have no weight in his favor.

One person can have the benefit of one entry or filing *only*. He is disqualified by having made such entry or filing alone, or as a member of an association. No entry can be allowed an association which has in it a single person thus disqualified, as the law prohibits the entry or holding of more than one claim either by an individual or an association. No entry is allowed, under this act, of lands containing other valuable minerals. The character of the land will be determined under the present rules relative to agricultural and mineral lands. Those that are sufficiently valuable for other minerals to prevent their entry as agricultural lands cannot be entered under this act.

Assignments of the right to purchase under this act will be recognized when properly executed. Proof and payment must be made, however, within the prescribed period, which dates from the first day of the possession of the assignor who initiated the claim.

The affidavit required from each claimant at the time of actual purchase will be as follows:

I, ——— ———, claiming the right of purchase under the act of Congress entitled "An act to provide for the sale of the lands of the United States containing coal," approved March 3, 1873, to the ——— quarter of section ———, in township ———, of range ———, subject to sale at ———, do solemnly swear that I have never had the right of purchase under this act, either as an individual or as a member of an association, and that I have never held any other lands under its provisions; I further swear that I have expended in developing coal mines on said tract in labor and improvements the sum of ——— dollars, the nature of such improvements being as follows: ——— ——— ———; that I am now in the actual possession of said mines, and make the entry for my own use and benefit, and not directly or indirectly for the use and benefit of any other party: and I do furthermore swear that I am well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that my knowledge of said land is such as to enable me to testify understandingly with regard thereto; that there is not, to my knowledge, within the limits thereof, any vein or lode of quartz or other rock in place bearing gold, silver, or copper, and that there is not within the limits of said land, to my knowledge, any valuable mineral deposit other than coal: So help me God.

——— ———,

I, ——— ———, of the land office at ———, do hereby certify that the above affidavit was sworn and subscribed to before me this ——— day of ———, A. D., 18—.

——— ———.

In case the purchaser shows by an affidavit that he is not personally acquainted with the character of the land, his duly authorized agent who possesses such knowledge may make the required affidavit as to its character; but whether this affidavit is made by principal or agent, it must be corroborated by the affidavits of two disinterested and credible witnesses having knowledge of its character.

VIII. Stone and Timber Lands.

Surveyed lands in California, Oregon, Nevada, and in Washington Territory not yet proclaimed and offered at public sale, valuable chiefly for timber and stone, unfit for cultivation, and consequently unfit for disposal under the pre-emption and homestead laws, may be purchased by individuals and by associations at the minimum price of $2.50 per acre.

When a party applies to purchase a tract of this character, the Register and Receiver will require him to make affidavit that he is a citizen of the United States by birth or naturalization, or that he has declared his intention to become a citizen under the naturalization laws. If native born, parol evidence of that fact will be received. If not native born, record evidence of the prescribed qualifications must be furnished. In connection therewith, he will be required to make a sworn statement in duplicate, according to the attached form;

LAND OFFICE AT ——,
(*Date*) ——, 18—.

I, —— ——, of —— county, ——, desiring to avail myself of the provisions of the act of Congress of June 3. 1878, entitled "An Act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the —— of section ——, township ——, of range ——, do solemnly —— that ——; that the said land is unfit for cultivation, and valuable chiefly for its ——; that it is uninhabited; that it contains no mining or other improvements ——; nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

—— ——.

Sworn to and subscribed before me this —— day of ——, 18—.

—— ——,
——.

If any person taking this oath swears falsely in the premises, he will be subject to all the pains and penalties of perjury, and forfeit the money which he may have paid for the lands, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of bona-fide purchasers, will be null and void.

Upon the filing of the above statement, the Register of the land office will post a notice of such application, embracing a description of the land by legal subdivisions, in his office, for a period of sixty days, and furnish the applicant a copy of the same for publication, at the expense of the applicant, in a newspaper published nearest the location of the premises, for a like period of time; and after the expiration of the sixty days, if no adverse claim shall have been filed, the person desiring to purchase must furnish to the Register of the land office satisfactory evidence that the notice of the application prepared by the Register was duly published in a newspaper as required.

This evidence must consist of the affidavit of the publisher or other person having charge of the newspaper in which the notice is published, with a copy of the notice attached thereto, setting forth the nature of his connection with the paper, and that the notice was duly published for the prescribed period. The evidence required with regard to the non-mineral character of the land, and its unoccupied and unimproved condition, must consist of the testimony of at least two disinterested witnesses, to the effect that they know the facts to which they testify from personal inspection of the land and of each of its smallest legal subdivisions, as per form attached:

TESTIMONY OF WITNESS.

—— ——, being called as a witness in support of the application of —— —— to purchase the —— of section ——, township ——, of range ——, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?
Ans. ——.
Ques. 2. What is your occupation?
Ans. ——.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of its smallest legal subdivisions?

Ans. ——.

Ques. 4. When and in what manner was such inspection made?

Ans. ——.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. ——.

Ques. 6. Is it fit for cultivation?

Ans. ——.

Ques. 7. What causes render it unfit for cultivation?

Ans. ——.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. ——.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. ——.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. ——.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, it any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except himself?

Ans. ——.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. ——.

—— ——.

I HEREBY CERTIFY that witness is a person of respectability; that each question and answer in the foregoing testimony was read to —— before —— signed —— name thereto, and that the same was subscribed and sworn to before me this —— day of ——, 18—.

—— ——,

——.

This testimony may be taken before the Register or Receiver, or any officer using an official seal and authorized to administer oaths in the land district in which the land lies. Upon such proof being produced, if no adverse claim shall have been filed, the entry applied for may be allowed.

The Receiver will issue his receipt for the purchase money in the usual form.

The Register and Receiver are entitled to a fee of five dollars each for allowing an entry under said act, and jointly at the rate of twenty-two cents and a half per hundred words for testimony reduced by them to writing for claimants.

If, at the expiration of the sixty days notice, an adverse claim should be found to exist calling for an investigation, the Register and Receiver will allow the parties a hearing according to the rules of practice.

In case of an association of persons making application for such an entry, each of the persons must prove the requisite qualifications, and their names must appear in and be subscribed to the sworn statement, as in case of an individual person. They must also unite in the regular application for entry, which will be made in their joint names as in other cases of joint cash entry.

IX. Saline Lands.

Lands that are saline in character within the public land States, except the States of Mississippi, Louisiana, Florida, California, and Nevada, none of which have had a grant of saline by act of Congress, and exclusive also of the Territories, are subject to sale at auction or private entry.

Should *prima facie* evidence that certain tracts are saline in character be filed with the Register and Receiver of the proper land district, they will designate a time for a hearing at their office, and give notice to all parties in interest in order that they may have ample opportunity to be present with their witnesses.

At the hearing the witnesses will be thoroughly examined with regard to the true character of the land, and whether the same contains any known mines of gold, silver, cinnabar, lead, tin, copper, or other valuable mineral deposits or any deposits of coal.

The witnesses shall also be examined in regard to the extent of the saline deposits upon the given tracts, and whether the same are claimed by any person; if so, the names of the claimants, and the extent of their improvements, must be shown.

The testimony should also show the agricultural capacities of the land, what kind of crops, if any, have been raised thereon, and the value thereof. The testimony should be as full and complete as possible, and, in addition to the leading points indicated above, everything of importance bearing upon the question of the character of the land should be elicited at the hearing.

Should the tracts be adjudged *saline lands*, the Register and Receiver will be instructed to offer the same for sale, after public notice, at the local land office of the district in which the same shall be situated, and to sell said tract or tracts to the highest bidder for cash, at a price of not less than $1.25 per acre.

In case said lands fail to sell when so offered, the same will be subject to private sale at such land office for cash, at a price of not less than $1.25 per acre, in the same manner as other public lands are sold, and already indicated on preceding pages.

X. Desert Lands.

Any party who wishes to make entry of desert lands can do so only in the States of California, Oregon, and Nevada, and the Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota, and must file with the officers of the land office for the district wherein the land is situated, the following

DECLARATION.

No.——.

LAND OFFICE AT ——,
(*Date*) ———, 18—.

I, ——— ———, of —— county, —— of ——, being duly sworn, depose and declare, that I am a citizen of the United States, of the age of ——, and a resident of said county and ——, and by occupation a ——; that I intend to reclaim a tract of desert land, not exceeding one section, by conducting water upon the same, within three years from date, under the provisions of the act of Congress approved March 3, 1877, entitled "An Act to provide for the sale of desert lands in certain States and Territories." The desert land which I intend to reclaim does not exceed one section, and is situated in —— county, in the —— land district, and is described as follows, to wit: the —— of section No. ——, township No. ——, range No. ——, containing —— acres. I further depose, that I have made no other declaration for desert lands under the provisions of said act; that the land above described will not, without irrigation, produce an agricultural crop; that there is no timber growing upon said land; that there is not, to my knowledge, within the limits thereof, any vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, to my knowledge, any placer, cement, gravel, or other valuable mineral deposit or salines; that no portion of said land is claimed for mining purposes, under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land; that I became acquainted with said land by ——; and that my declaration therefor is not made for the purpose of fraudently obtaining title to mineral land, timber land, or agricultural land, but for the purpose of faithfully reclaiming, within three years from the date hereof, by conducting water thereon, a tract of land which is desert land within the meaning of the act.

——— ———.

LAND OFFICE AT ——— ———,
(*Date*) ———, 18—.

I hereby certify that the foregoing declaration was this day sworn to and subscribed before me.

——— ———, *Register*.
——— ———, *Receiver*.

This declaration may be executed before the clerk of any court of record having a seal. If the applicant is not a citizen, but has declared his intention to become such, a duly certified copy of his declaration of intention to become a citizen must be presented and filed.

The declaration must also contain a description of the land applied for, by legal subdivisions if surveyed, or, if unsurveyed, as nearly as possible without a survey, by giving, with as much clearness and precision as possible, the locality of the tract with reference to known and conspicuous landmarks or the established lines of survey, so as to admit of its being thereafter readily identified when the lines of survey come to be extended.

As preliminary to the filing of such declaration, it must be satisfactorily shown that the land therein described is *desert land* as defined in the second section of the act. To this end, the testimony of at least two disinterested and credible witnesses is required, whose testimony will be reduced to writing in the usual manner; or the evidence may be furnished in the form of affidavits executed before the clerk of any court of record having a seal, the credibility of the witnesses to be certified by said clerk. The witnesses must clearly state their acquaintance with the premises, and the facts as to the condition and situation of the land upon which they base their judgment. A form of affidavit, to be sworn to and subscribed by each witness, is as follows:

AFFIDAVIT.

No. ——.

LAND OFFICE AT ——,
(*Date*) ——, 18—.

I, —— ——, of —— county, ——, being duly sworn, declare, upon oath, that I am a resident of said county and ——; that I am of the age of ——, and by occupation a ——; that I am well acquainted with the character of each and every legal subdivision of the following described land: the —— section No. ——, township No. ——, range No. ——, containing —— acres; that I became acquainted with said land by ——; that I have been acquainted with it for —— years last past; that I have frequently passed over it; that my knowledge of said land is such as to enable me to testify understandingly concerning it; that the same is desert land within the meaning of the second section of the act of Congress approved March 3, 1877, entitled "An Act to provide for the sale of desert lands in certain States and Territories;" that said land will not, without artificial irrigation, produce any agricultural crop; that no agricultural crop has ever been raised or cultivated on said land, for the reason that it does not contain sufficient moisture for successful cultivation; that the same is essentially dry and arid land, wholly unfit for cultivation without artificial irrigation; that said land cannot be successfully cultivated without reclamation by conducting water thereon; that said land has hitherto been unappropriated, unoccupied, and unsettled, because it has been impossible to cultivate it successfully on account of its dry and arid condition; that it is a fact well-known, patent, and notorious, that the same will not, in its natural condition, produce any crop, that the land is the ——; that there is no timber growing thereon, but that it is devoid of timber; that there is not, to my knowledge, within the limits thereof, any vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not, within the limits of said land, to my knowledge, any placer, cement, gravel, or other valuable mineral deposit or salines; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land; that I am not interested in any way or manner, directly or indirectly, present or prospective, in any application or declaration made or to be made for said land, or in the land itself, or in the title which may by any person or in any manner be acquired thereto.

—— ——.

After this proof has been made to the satisfaction of the district officers, the Receiver will receive from the applicant the sum of twenty-five cents per acre for the land applied for; the Register will receive and file his declaration, and they will jointly issue, in duplicate, a certificate in the form attached:

No. ——.

UNITED STATES LAND OFFICE,
——, 18—.

It is hereby certified that under the provisions of the act of Congress approved March 3, 1877, entitled "An act to provide for the sale of desert lands in certain States and Territories," —— —— has this day filed in this office his declaration of intention to reclaim the following described tract of land, viz.: ——; that he has proven to our satisfaction that the said tract of land is desert land, as defined in the second section of said act, and that he has paid to the Receiver the sum of —— dollars, being at the rate of twenty-five cents per acre for the land above described.

It is, therefore, further certified, that if within three years from the date hereof the said —— ——, his heirs or legal representatives, shall satisfactorily prove that the said land has been reclaimed by carrying water thereon, and shall pay to the Receiver the additional sum of one dollar per acre for the land above described, he or they shall be entitled to receive a patent therefor under the provisions of the said act.

—— ——, *Register.*
—— ——, *Receiver.*

$——.

NOTE.—The word "heirs" is substituted in this form for the word "assignee," the Secretary of the Interior having declined to recognize the assignment of desert land claims.

One of these duplicates will be delivered to the applicant; the other will be retained by the Register and Receiver with the declaration and proof.

At any time within three years after the date of filing the declaration and the issue of certificate, provided the United States surveys have been extended over the land, the proper party may make satisfactory proof of having conducted water upon the land applied for. This proof must consist of the testimony of at least two disinterested and credible witnesses, who must appear in person before the Register and Receiver. They must declare that they have personal knowledge of the condition of the land applied for, and of the facts to which they testify; and their testimony must be reduced to writing in the usual manner.

DEPOSITION OF APPLICANT.

Ques. 1. State your name, age, occupation, and residence.
Ans. ——.
Ques. 2. Are you a citizen of the United States, or, if not, have you declared your intention to become such? (If not native born, proof-record must be furnished.)
Ans. ——.
Ques. 3. If you have heretofore made a desert land entry, give the number and date thereof, and describe the land embraced therein.
Ans. ——.
Ques. 4. Have you conducted water upon the land embraced in said entry, and irrigated the same, and reclaimed it from its former desert character, to such an extent that it will now produce an agricultural crop?
Ans. ——.
Ques. 5. What crops have you raised upon said land in each and every year since your first entry thereon under your declaration No. ——?
Ans. ——.
Ques. 6. How many acres have been sown or planted in each year, in what crops, and upon what portion or subdivision of the land, and what amount of such crops has been actually produced?
Ans. ——.

Ques. 7. What crops, if any, had been grown upon the land, or upon any portion thereof, and, if any, upon what portion, previous to your entry thereon?

Ans. ——.

Ques. 8. Would the land, or any portion of it, by cultivation without irrigation, have produced any agricultural crop whatever, and, if so, what crop?

Ans. ——.

Ques. 9. Was there any natural water supply upon such land sufficient to fertilize or irrigate the whole or any portion thereof, and, if so, what portion? State fully.

Ans. ——

Ques. 10. Has the amount of water conveyed upon the land in any one season been sufficient to so irrigate the entire tract as to render the same productive, and, if so, what crop or crops would such irrigation produce?

Ans. ——.

Ques. 11. Has the whole tract been irrigated and cultivated by you in any one season?

Ans. ——.

Ques. 12. Has each smallest legal subdivision or portion of less than forty acres been irrigated or cultivated either during one season or different seasons since the date of your entry?

Ans. ——.

Ques. 13. How much water per acre has been conducted upon the land, or upon any portion under cultivation in any one season; for how long a time was it so conducted upon the land, and at what times or seasons? State fully.

Ans. ——.

Ques. 14. In what manner was such water conveyed upon the land, whether by pipes or ditches, and how was it distributed over and through the soil? State particularly and in detail, and describe the ditches as to their width, depth, direction through or around the land, and give the length of each.

Ans. ——.

Ques. 15. Have you at this time the right and proprietorship of water sufficient and available to continue the irrigation of this tract and make perpetual reclamation of the land, and is it your purpose so to continue its use upon this land, and for the purposes of such reclamation?

Ans. ——.

Ques. 16. How was such right or proprietorship obtained, and by what tenure do you now hold the same? (Duly verified abstract of title must be furnished.)

Ans. ——.

Ques. 17. Have you the sole and entire interest in said entry, and in the tract covered thereby, and the water appropriated to irrigate the same?

Ans. ——.

Ques. 18. Has any other person, individual, or company of individuals, any interest whatever in said entry, tract, or water appropriation? If so, give the name, residence, and occupation of each such person, and the nature, amount, and extent of such interest.

Ans. ——.

Ques. 19. Have you made or become the assignee of any other entry, or have you any interest, direct or indirect, in any other entry under the desert land act?

Ans. ——.

(*Signature.*) —— ——.

I HEREBY CERTIFY that each question and answer in the foregoing deposition was read to the applicant before —— signed —— name thereto, and that the same was subscribed and sworn to before me this —— day of ——, 18—.

—— ——, *Register.*
—— ——, *Receiver.*

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. [See § 1750.]

The deposition of two witnesses, in the following form, taken separately, is required in each case.

DEPOSITION OF WITNESS.

Ques. 1. State your name, age, residence, and occupation.

Ans. ——.

Ques. 2. Are you acquainted with —— ——, who made desert land entry No. —, on the —— day of ——, A. D., 18—, upon the ——?

Ans. ——.

Ques. 3. How long have you known the party who made this entry?

Ans. ——.

Ques. 4. Have you personal knowledge of this land?

Ans. ——.

Ques. 5. Has water been conducted upon the land embraced in said entry, so as to irrigate and reclaim the same from its former desert condition to such extent that the same will produce an agricultural crop?

Ans. ——.

Ques. 6. What crops have been raised upon said land in each and every year since its first entry by —— ——, under declaration No. —, and by whom?

Ans. ——.

Ques. 7. How many acres have been sown or planted in each year, in what crops, and upon what portion or subdivision of the land, and what amount of crops have been produced thereon, and by whom?

Ans. ——

Ques. 8. What crops, if any, had been grown upon the land or upon any portion thereof, previous to the entry of —— —— thereon?

Ans. ——.

Ques. 9. Would the land, or any portion of it, by cultivation without irrigation, have produced any agricultural crop whatever, and if so, what crop?

Ans. ——.

Ques. 10. Was there any natural water supply upon such land sufficient to fertilize or irrigate the whole, or any portion thereof, and if so, what portion? State fully.

Ans. ——.

Ques. 11. Has the amount of water conveyed upon said land by —— —— in any one season been sufficient to so irrigate the entire tract as to render the same productive, and if so, what crop or crops would such irrigation produce?

Ans. ——.

Ques. 12. Has the whole tract been irrigated and cultivated by —— —— in any one season?

Ans. ——.

Ques. 13. Has each smallest legal subdivision or portion of less than forty acres been irrigated or cultivated either during one season or different seasons since the date of entry?

Ans. ——.

Ques. 14. How much water per acre has been conducted upon the land, or upon any portion under cultivation in any one season; for how long a time was it so conducted upon the land, and at what times or seasons? State fully.

Ans. ——.

Ques. 15. In what manner was such water conveyed upon the land, whether by pipes or ditches, and how was it distributed over and through the soil? State particularly and in detail, and describe the ditches as to their width, depth, direction through or around the tract, and give the length of each.

Ans. ——.

Ques. 16. Has —— —— at this time the right and proprietorship of water sufficient and available to continue the irrigation of this tract and make perpetual reclamation of the land?

Ans. ——.

Ques. 17. How did you become acquainted with the facts relative to the irrigation of said land?

Ans. ——.

Ques. 18. Have you any interest, direct or indirect, in this entry, in the land covered thereby, or in the water supply used in its irrigation?

Ans. ——.

(*Signature.*) —— ——.

I HEREBY CERTIFY that witness is a person of respectability; that each question and answer in the foregoing testimony was read to —— before —— signed —— name thereto; and that the same was subscribed and sworn to before me this —— day of ——, 18—.

—— ——, *Register.*
—— ——, *Receiver.*

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. [See § 1750.]

The party must also present and surrender the duplicate certificate issued when the declaration was filed. When this is done, and the final proof made to the satisfaction of the district officers, the Receiver will receive the additional payment of one dollar per acre, receipt therefor in duplicate, in the following form, and give the party a duplicate receipt:

RECEIVER'S FINAL RECEIPT, No. ——.

DECLARATION No. ——.
LAND OFFICE AT ——,
(*Date*) ——, 18—.

Received from —— ——, of —— county, ——, the sum of —— dollars and —— cents, being final payment of one dollar per acre for the —— containing —— acres, at one dollar and twenty-five cents per acre, the sum of twenty-five cents per acre having been heretofore paid, as per original receipt No. ——.

—— ——, *Receiver.*

$——.

The right to the use of water by the person conducting the same on or to any tract of desert land not to exceed six hundred and forty acres, shall depend upon *bona fide* prior appropriation; and such right shall not exceed the amount of water actually appropriated and necessarily used for the purpose of irrigation and reclamation; and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers, and other sources of water supply upon the public lands, and not navigable, must remain and be held free for the appropriation and use of the public for irrigation, mining, and manufacturing purposes, subject to existing rights.

CHAPTER VII.

WHERE TO SETTLE.

The question "where to settle" is a serious one to the emigrant. The suggestions here offered are not in favor of any particular locality or community. They are such as must present themselves to every person who will give the subject serious consideration.

The wonderful diversity of soil and climate, society and facilities for the several industries, presented by the broad expanse of our country, offers to every man a congenial location and a happy home.

The advantages of migrating in companies of three to twenty families are many. An agent can be chosen to examine the region in which after full inquiry, correspondence and reading, it is decided to settle. Low rates can be obtained for outfit, traveling and other expenses, land in large quantities can be bought cheap, while the discomforts of going upon government lands are materially lessened when friends go in colonies.

Starting with the assumption that the emigrant is industrious, sober and intelligent, the points to be aimed at are—first and foremost, health and bodily comfort, second, mental and moral growth; third, financial success in the near future.

HEALTH AND BODILY COMFORT.

If the health of himself and family is good, a climate like the one he is leaving should be sought by the settler. Run no risk by going upon the lowland when accustomed to the hills; to a humid atmosphere from a dry bracing one, or the reverse.

Consult the family physician, and gain all information possible about the mean annual temperature, extremes of heat and cold, the amount of rainfall, chills and fever, etc., in the region decided upon.

On the other hand, a change of climate often restores physical vigor. Many a consumptive from bleak New England has discovered fountains of health in the south and southwest

The surroundings, especially the state of society, have much to do with physical comfort In a turbulent, irreligious community, where crime goes unpunished and the criminal is somewhat of a hero, a peace-loving family will be in a constant state of worry, that must eventually affect their general health. Let such regions be avoided as a pest-house is shunned.

Political troubles prevent immigration, as they aid emigration or an exodus. No community that deprives any honest citizen of his political rights can expect to secure an intelligent class of immigrants, and may expect to lose those who are disfranchised. The enterprising among them will find homes amidst a wiser people, and let the office-holders collect their salaries from waste land if they can. There is no truer axiom than that in any neighborhood each man's gain is everybody's gain and each man's loss is everybody's loss.

MENTAL AND MORAL GROWTH.

Seek a State or Territory whose officials appreciate churches and schools; where taxpayers perceive the fact that every dollar spent on education and religion is a saving of two dollars on the jail and penitentiary, where newspapers are numerous and libraries have been started, and literary, temperance and other societies are encouraged by the leading citizens. In sparsely settled regions in the Territories where society is not fully organized, much cannot be expected in the matter of education and religion, but the tone and sentiments of the people may be taken as a sure index of the future.

FINANCIAL SUCCESS.

The settler must determine the kind of business he will pursue, then seek a locality best adapted to carrying it on. Farming is the most common and safest occupation in a new country. If he would make a specialty of live stock, fruit culture, wheat raising, or aught else, let the farmer consider all that tends to success.

Railroad facilities, river and lake transportation, and nearness to markets, must be looked to; also the fence and other real estate laws, State and county debts, and the laws relative to municipal indebtedness, rates of taxation, character of officials, etc.; whether the school houses, churches and public buildings are already erected, and society fully organized. Homestead exemptions, cost of living and of building materials, nearness to stores, mills, etc., abundant water supply, Indians, droughts, grasshoppers, potato bugs, and everything else that can affect his success, should receive due attention.

Land near a railroad at $5.00 an acre, is cheaper than land at $1.25 several miles from transportation. Do not buy too much land simply because it is cheap. One hundred and sixty acres are all an ordinary man can attend to properly, and taxes on a large farm balance considerable profit.

Other things being equal, choose a settlement near mines and manufactures, or rapid streams likely to be used for manufactures; near the junction of rivers or valleys, where a valley crosses a river or ends at a lake.

Such locations always secure good markets for farm produce, and rapidly advance the price of land, becoming centres of business and sites for future cities.

The title which a settler acquires to lands in this country is in *fee simple*. It is not a lease for any term of years, but perpetual ownership, whether he buys of the general Government, State, or corporation. The land becomes his property, to hold during life, and transmit to his heirs, or he may sell it at will. There is no landlord, no rent to pay, nor are any church rates exacted. He is himself lord of the manor, and peer of his fellow-citizens of all classes.

ADDRESSES.(*)

For the information of settlers the following addresses are appended:

1. A list of the United States land officials.
2. A list of State land and immigration officers and agents.
3. A list of railroad land commissioners and agents.
4. A list of land attorneys and real estate dealers, who will gladly furnish information relative to lands in their neighborhoods.

In writing to parties, in lists one and four especially, inquirers will remember to enclose a three-cent stamp for reply, except in addressing the Commissioner of the General Land Office, when no stamp should be sent.

Attention is invited to the advertisements following this chapter. They all contain items of interest to settlers.

LIST I.

United States Land Officers.

GENERAL LAND OFFICE.

Commissioner: J. A. Williamson.
Chief Clerk: J. M. Armstrong.

U. S. SURVEYORS-GENERAL.

Name.	*Address.*
Jacob H. Stewart	St. Paul, Minnesota.
Henry Esperson	Yankton, Dakota.
Albert Johnson	Denver, Colorado.
Wm. P. Chandler	Boise City, Idaho.
Theo. Wagner	San Francisco, Cal.
E. S. Davis	Virginia City, Nevada.
H. M. Atkinson	Santa Fe, New Mexico.
Jas. C. Tolman	Portland, Oregon.
Wm. McMicken	Olympia, Washington.
Geo. S. Smith	Plattsmouth, Nebraska.
R. H. Mason	Helena, Montana.
Fred'k Salomon	Salt Lake City, Utah.
John Wasson	Tucson, Arizona.
Chas. D. Brigham	Tallahassee, Florida.
O. H. Brewster	New Orleans, Louisiana.
Edward C. David	Cheyenne, Wyoming.

(*) All parties who wish their names to appear in future editions of this work are requested to send them to the editor at once.

UNITED STATES LAND OFFICES.

Location.	*Register.*	*Receiver.*
ALABAMA.		
Huntsville	John M. Cross	W. H. Tancre.
Montgomery	Pel. J. Anderson	P. J. Strobach.
ARKANSAS.		
Little Rock	M. W. Gibbs	Jas. F. Fagan.
Camden	S. W. Mallory	Alfred A. Tufts.
Harrison	Jno. Murphy	Robt. S. Armitage.
Dardanelle	Thos. M. Gibson	Thos. Boles.
ARIZONA.		
Prescott	Wm. N. Kelley	Geo. Lount.
Florence	C.M.K. Paulison	Levi Ruggles.
CALIFORNIA.		
San Francisco	Wm. R. Wheaton	C. H. Chamberlin.
Sacramento	Edw. F. Taylor	Henry O. Beatty.
Marysville	John C. Bradley	L. T. Crane.
Humboldt	Chas. F. Roberts	Solomon Cooper.
Susanville	J. R. Lockwood	Andrew Miller.
Stockton	Geo. A. McKenzie	Otis Perrin.
Los Angeles	Alfred James	J. W. Haverstick.
Visalia	J. D. Hyde	Tipton Lindsey.
Shasta	Will. E. Hopping	Adolph Dobrowsky.
Bodie	James E. Goodell	H. Z. Osborne.
COLORADO.		
Pueblo	Ferd. Barndollar	M. H. Fitch.
Central City	Richard Harvey	E. W. Henderson.
Denver City	Louis Dugal	Sam'l T. Thomson.
Leadville	John J. Henry	Wm. K. Burchinell.
Del Norte	John Cleghorn	Chas. A. Brastow.
Lake City	H. C. Olney	C. B. Hickman.
DAKOTA.		
Springfield	Arthur C. Mellette	L. D. F. Poore.
Sioux Falls	B. F. Campbell	Jno. M. Washburn.
Fargo	Horace Austin	Thos. M. Pugh.
Yankton	G. A. Wetter	Lott S. Bayless.
Bismarck	Peter Mantor	Edward M. Brown.
Deadwood	A. S. Stewart	J. F. McKenna.
FLORIDA.		
Gainesville	Louis A. Barnes	John F. Rollins.
IDAHO.		
Boise City	John B. Miller	James Stout.
Lewiston	J. M. Howe	R. J. Monroe.
Oxford	C. B. Fox	T. F. Singiser.
IOWA.		
Ft. Des Moines	Felix G. Clarke	H. H. Griffiths.
Sioux City	Geo. H. Wright	Wm. R. Smith.
KANSAS.		
Topeka	W. H. Fitzpatrick	Geo. W. Watson.
Salina	Thomas L. Bond	Lewis Hanback.
Independence	M. J. Salter	Henry M. Waters.
Concordia	B. H. McEckron	Evan J. Jenkins.
Wichita	Rich'd L. Walker	James L. Dyer.
Kirwin	Thos. M. Helm	Lewis J. Best.
Wa Keeney	B. J. F. Hanna	Wm. J. Hunter.
Larned	Chas. A. Morris	Henry Booth.
LOUISIANA.		
New Orleans	Wm. M. Burwell	Geo. Baldey.
Natchitoches	Louis Dupleix	Alexis E. Lemee.
MICHIGAN.		
Marquette	Henry H. Stafford	Jas. M. Wilkinson.
Detroit	J. B. Bloss	Jno. M. Farland.
East Saginaw	Chas. Doughty	F. J. Burton.
Reed City	Edw. Stevenson	W. H. C. Mitchell.
MINNESOTA.		
Taylor's Falls	John P. Owens	George B. Folsom.
St. Cloud	D. H. Freeman	Wm. B. Mitchell.
Fergus Falls	Soren Listoe	Jno. H. Allen.
Worthington	Mons. Grinager	J. P. Moulton.
New Ulm	Chas. B. Tyler	Chas. C. Goodnow.
Benson	Darwin S. Hall	Heman W. Stone.
Du Luth	R. C. Mitchell	T. H. Pressnell.
Crookston	T. C. Shapleigh	Paul C. Sletten.
Redwood Falls	W. P. Dunnington	W. B. Herriott.
MISSISSIPPI.		
Jackson	Richard C. Kerr	R. J. Alcorn.
MISSOURI.		
Booneville	Gustave Reiche	Geo. Ritchey.
Ironton	Geo. A. Moser	Llewellyn Davis.
Springfield	G. A. C. Woolley	James Dumars.
MONTANA.		
Helena	James H. Moe	Frank P. Sterling.
Bozeman	Davis Willson	J. V. Bogert.
NEBRASKA.		
Norfolk	Edward S. Butler	Wm. B. Lambert.
Beatrice	Hiram W. Parker	R. B. Harrington.
Lincoln	Jos. B. McDowell	C. N. Baird.
Niobrara	Benj. F. Chambers	James Stott.
Grand Island	M. B. Hoxie	Wm. Anyan.
North Platte	A. D. Buckworth	John Taffe.
Bloomington	Simon W. Switzer	Geo. W. Dorsey.
NEVADA.		
Carson City	Chas. N. Harris	Samuel C. Wright
Eureka	James McMartin	Harvey Carpenter.
NEW MEXICO.		
Santa Fe	John C. Davis	Elias Brevoort.
La Mesilla	Geo. D. Bowman	Samuel W. Sherfey.
OREGON.		
Oregon City	Louis T. Barin	John W. Watts.
Roseburg	Wm. F. Benjamin	Jas. C. Fullerton.
La Grande	Henry W. Dwight	Daniel Chaplin.
Lakeview	J. H. Evans	George Conn.
Dalles	Laban Coffin	C. N. Thornburg.
UTAH.		
Salt Lake City	John B. Neal	M. M. Bane.
WASHINGTON.		
Olympia	Josiah T. Brown	Rob't G. Stuart.
Vancouver	W. H. Smallwood	Sam'l W. Brown.
Walla Walla	Ed. H. Morrison	Alexr. Reed.
Colfax	W. H. James	E. N. Sweet.
WISCONSIN.		
Menasha	Geo. W. Fay	Norman Thatcher.
Falls St. Croix	Michael Field	Joel F. Nason.
Wausau	Stephen H. Alban	William Callon.
La Crosse	F. A. Husher	John Ulrich.
Bayfield	Jno. H. Knight	Isaac H. Wing.
Eau Claire	J. G. Callahan	Vincent W. Bayless.
WYOMING.		
Cheyenne	Geo. R. Thomas	Wm. M. Garvey.
Evanston	Wm. G. Tonn	E. S. Crocker.

LIST II.

State Land Officers and Immigration Agents.

ALABAMA.

None.

ARKANSAS.

W. A. Webber, President State Immigration Society, Little Rock, Ark.
W. J. Murphy, Secretary, ditto.
D. W. Lear, Commissioner State Lands, Little Rock, Ark.

CALIFORNIA.

J. W. Shanklin, State Surveyor-General and Register of State Land Office, Sacramento, California.
R. E. C. Stearns, Secretary Board of Regents, Berkeley, Alameda county, California.
J. Ham Harris, Land Agent of University, San Francisco, P. O. box 2040.
John Mullan (of Mullan & Hyde), State Land Agent and Attorney, Washington, D. C.

COLORADO.

W. C. Saunders, Immigration Agent, and Secretary of State Board of Land Commissioners, Denver, Col.

FLORIDA.

Hugh A. Corley, Commissioner of Lands and Immigration, Tallahassee, Florida.
Seth French, Commissioner of Bureau of Immigration, Jacksonville, Florida.
Samuel Fairbanks, Assistant ditto.

IOWA.

James K. Powers, Register State Land Office, Des Moines, Iowa.
John M. Davis, Deputy, ditto.

KANSAS.

P. J. Bonebrake, Register of State Lands, Topeka, Kan.
J. A. Haughanout, Agent University Lands, Neosha Falls, Kansas.
Van R. Holmes, Agent State Normal School Lands, Emporia, Kansas.
L. R. Elliott, Agent Agricultural College Lands, Manhattan, Kansas.
John Kelly, President, and Alfred Gray, Secretary State Board of Agriculture. In charge of Immigration, Topeka, Kansas.

LOUISIANA.

Received no reply to letter to Governor.

MICHIGAN.

James M. Neasmith, Commissioner of State Land Office, Lansing, Mich.
J. B. Haviland, State Swamp Land Commissioner, Traverse City, Mich.

MINNESOTA.

O. P. Whitcomb, State Land Commissioner, St. Paul, Minn.
H. H. Young, Secretary Board of Immigration, St. Paul, Minn.

MISSISSIPPI.

John M. Smylie, Commissioner of Swamp Lands, Jackson, Miss.
E. G. Wall, Commissioner of Immigration, Jackson, Miss.

MISSOURI.

James E. McHenry, Register of State Lands, Jefferson City, Mo.
Andrew McKinley, State Superintendent of Immigration, Sixth and Locust Sts., St. Louis, Mo.

NEBRASKA.

T. M. Davis, State Land Commissioner, Lincoln, Nebraska.

NEVADA.

Andrew J. Hatch, Surveyor-General and Register of State Land office, Carson City, Nevada.
I. N. Fassett, Deputy Register, ditto.
John Mullan (of Mullan & Hyde), State Land Agent and Attorney, Washington, D. C.

OREGON.

E. P. McCormick, Clerk of Board of Commissioners for Sale of State Lands, Salem, Oregon.
Joseph Shinn, Register of State Lands, La Grande, Oregon.
John Mullan (of Mullan & Hyde), State Land Agent and Attorney, Washington, D. C.
W. H. Byars, Swamp Land Agent, Roseburg, Oregon.
William McCann, Immigration Agent, Liverpool, England.
L. P. McCarty, Immigration Agent, New York City.

TEXAS.

W. C. Walsh, Commissioner of the General Land Office, Austin, Texas.

WISCONSIN.

James H. Waggoner, Chief Clerk Board of Commissioners of State Lands, Madison, Wis.
J. A. Becker, President State Board of Immigration Milwaukee, Wis.

LIST III.

Railroad Land Commissioners and Agents(*).

ALABAMA.

None reported.

ARKANSAS.

ST. LOUIS, IRON MOUNTAIN AND SOUTHERN RAILWAY COMPANY.

Thomas Essex, Land Commissioner, Little Rock, Arkansas.

LOCAL LAND AGENTS.

T. J. Allison, Austin, Ark.
P. L. Barber, Judsonia, Ark.
R. L. Powers, Prescott, Ark.
C. E. Bramble, Texarkana, Ark.
C. E. Cutter, Hot Springs, Ark.
W. W. Slack, Alexander, Ark.
Webber & Sons, Benton, Ark.

(*) Circulars were sent to all land grant railroad companies, with the request to send the names and addresses of their land commissioners and agents. Any desired changes or additions to this list will be gladly made for future editions.

ARKANSAS.

A. P. Mack, Gainesville, Ark.
A. M. Crow, Arkadelphia, Ark.
S. P. Holloway, Powhatan, Ark.
J. T. Henderson, Newport, Ark.

LITTLE ROCK AND FORT SMITH RAILWAY COMPANY.

W. D. Slack, Land Commissioner, Little Rock, Arkansas.
Agents not reported.

MEMPHIS AND LITTLE ROCK RAILROAD COMPANY.

James Harrington, Agent, Little Rock, Ark.

ARIZONA.

None reported.

CALIFORNIA.

CENTRAL PACIFIC RAILROAD COMPANY.

B. B. Redding, Land Commissioner, Fourth and Townsend Sts., San Francisco.
Has no Land Agents.

SOUTHERN PACIFIC RAILROAD COMPANY.

Jerome Madden, Land Agent, Fourth and Townsend Sts.; San Francisco.

COLORADO.

None reported.

DAKOTA.

NORTHERN PACIFIC RAILROAD COMPANY.

James B. Power, Land Commissioner, St. Paul, Minn.
Has no Local Agents.
(See Advertisement of Dakota Lands for Sale.)

FLORIDA.

None reported.

IDAHO.

None reported.

ILLINOIS.

ILLINOIS CENTRAL RAILROAD COMPANY.

P. Daggy, Land Commissioner, Room 11, No. 78 Michigan Avenue, Chicago, Ills.
Has no Land Agents.
(See Advertisement of Wheat and Fruit Lands for Sale.)

IOWA.

SIOUX CITY AND PACIFIC RAILROAD COMPANY.

F. C. Hill, Superintendent, Missouri Valley, Iowa.

LOCAL LAND AGENTS.

J. D. Brown, Missouri Valley, Iowa.
R. C. Hasson, Modale, Iowa.
C. B. Joy, Mondamin, Iowa.
R. Newton, River Sioux, Iowa.
C. H. Burrows, Onawa, Iowa.
S. P. Demmon, Whiting, Iowa.
R. C. Barnard, Sloan, Iowa.
J. W. Ritz, Sergeant's Bluff, Iowa.
Wm. Wells, Sioux City, Iowa.

KANSAS.

KANSAS PACIFIC RAILROAD COMPANY.

S. J. Gilmore, Land Commissioner, Salina, Kan.

LOCAL LAND AGENTS.

L. C. Warner, Brookville, Kan.
L. A. Minx, Lincoln, Kan.
W. T. Prescott, Sylvan Grove, Kan.
J. A. Wiggin, Ellsworth, Kan.
P. H. Rishel, Holly Road, Kan.
J. T. McKittrick, Wilson, Kan.
G. A. Appel, Glen Sharrold, Kan.
W. T. Nicholas, Lyons, Kan.
J. H. McGee, Delhi, Kan.
J. B. Corbett & Co., Bunker Hill, Kan.
Dr. H. A. Ellis, Russell, Kan.
James Johnston, Bartondale, Kan.
J. D. Ronstadt, Ellinwood, Kan.
C. M. Smith, Great Bend, Kan.
B. Brungardt, Herzog, Kan.
Jonas Waters, Victoria, Kan.
Edson & Judd, Hays City, Kan.
John H. Edwards, Ellis, Kan.
Taylor & Starbird, La Crosse, Kan.
N. C. Terrell, Millbrook, Kan.
Durham F. Keeney, Ogallah, Kan.
Warren, Keeney & Co., Wa Keeney, Kan.
C. W. Mulford, Collyer, Kan.
J. R. Miskelly, Buffalo, Kan.
Beal & Dryer, Grainfield, Kan.

ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY.

A. S. Johnson, Land Commissioner, Topeka, Kansas.

LOCAL LAND AGENTS.

H. Ritchie, Council Grove, Kan.
Homles & Holden, Emporia, Kan.
J. W. McWilliams, Cottonwood Falls, Kan.
W. M. Tomlinson, Elmdale, Kan.
J. W. Byram, Cedar Grove, Kan.
Robinson & Morrison, Florence, Kan.
Case & Billings, Marion Centre, Kan.
W. J. Cameron, Eldorado, Kan.
C. P. Vandenberg, Peabody, Kan.
J. W. McArthur, Walton, Kan.
M. P. Simpson, McPherson, Kan.
Muse, Spivey & Co., Newton, Kan.
T. R. Hazard, Sedgwick City, Kan.
J. M. Steele, Wichita, Kan.
G. W. Sweesey, Halstead, Kan.
W. A. Daily & Co., Burrton and Mt. Hope.
Brown & Bigger, Hutchinson, Kan.
Wm. Wallace, Castleton, Kan.
C. E. Heath, Nickerson, Kan.
J. H. Ricksecker, Sterling, Kan.
J. Masemore, Raymond, Kan.
F. A. Steckel, Ellinwood, Kan.
D. N. Heizer, Great Bend, Kan.
Frank B. Smith, Rush Centre, Kan.
John Lindas, Pawnee Rock, Kan.
G. H. Wadsworth, Larned, Kan.
H. P. Wolcott, Garfield, Kan.
G. W. Milner, Kinsley, Kan.
S. S. Ott, Offerle, Kan.
G. W. Potter & Co., Speareville, Kan.
J. A. Randall & Co., Dodge City, Kan.

KANSAS CITY, FORT SCOTT AND GULF RAILROAD COMPANY.

John A. Clark, Land Commissioner, Kansas City, Mo.

KANSAS CITY, LAWRENCE AND SOUTHERN RAILROAD COMPANY.

John A. Clark, Land Commissioner, Kansas City, Mo.
No agents reported.

MISSOURI, KANSAS AND TEXAS RAILWAY COMPANY.

A. M. Sommers, Land Commissioner, Emporia, Kans.
No agents reported.

LOUISIANA.

None reported.

MISSISSIPPI.

None reported.

MICHIGAN.

None reported.

MINNESOTA.

NORTHERN PACIFIC RAILROAD COMPANY.

James B. Power, Land Commissioner, St. Paul, Minn.
Has no local agents.
(See advertisement of rich lands for sale.)

CHICAGO, ST. PAUL AND MINNEAPOLIS RAILWAY COMPANY.

C. W. Hudson, Land Commissioner, Hudson, Wis.

LOCAL LAND AGENT.

S. A. Quall, 219 Washington ave., South Minneapolis, Minn.

MISSOURI.

ST. LOUIS, IRON MOUNTAIN AND SOUTHERN RAILWAY COMPANY.

W. A. Kendall, Assistant Land Commissioner, cor. Fifth and Market streets, St. Louis, Mo.

LOCAL LAND AGENTS.

J. M. Cooper, Morley, Mo.
M. H. A. Atkins, Poplar Bluff, Mo.

HANNIBAL AND ST. JOSEPH RAILROAD COMPANY.

Thos. D. Price, Land Commissioner, Hannibal, Mo.

LOCAL LAND AGENTS.

Thos. E. Hatcher, Palmyra, Mo.
W. F. Blackburn, Hunnewell, Mo.
Towson Bros., Shelbina, Mo.
A. J. Higbee, Clarence, Mo.
W G. Walker, Macon, Mo.
E. E. Richardson, Callao, Mo.
W. M. Willis, New Cambria, Mo.
Geo. W. Martin, Brookfield, Mo.
H. Black, Meadville, Mo.
Chas. H. Mansur, Chillicothe, Mo.
G. W. Murphy, Breckenridge, Mo.
Crosby Johnson, Hamilton, Mo.
Thos. E. Turney, Cameron, Mo.
Wm. Service, Lathrop, Mo.
Jos. Truex, Osborn, Mo.
O. G. McDonald, Stewartsville, Mo.
Henry E. Glazier, Maysville, Mo.

EXPLORING AGENTS.

J. M. Willis, Hannibal, Mo.
Geo. N. Mills, Hannibal, Mo.

MONTANA.

None reported.

NEBRASKA.

UNION PACIFIC RAILROAD COMPANY.

Leavitt Burnham, Land Commissioner, Omaha, Neb.
No agents reported.

SIOUX CITY AND PACIFIC RAILROAD COMPANY.

T. C. Hills, Superintendent, Missouri Valley, Iowa.

LOCAL LAND AGENTS.

F. Harriman, Blair, Neb.
F. D. Kendett, Belle Creek, Neb.
K. C. Morehouse, Fremont, Neb.
O. B. Rippey, Nickerson, Neb.
R. M. Payton, Hooper, Neb.
Geo. Foster, Scribner, Neb.
Scott Bryan, West Point, Neb.
C. R. Stedmon, Wisner, Neb.
K. Tripple, Stanton, Neb.
J. W. Scofield, Norfolk, Neb.
H. D. Dodendorf, Battle Creek, Neb.
A. H. Livingston, Oakdale, Neb.

NEVADA.

None reported.

NEW MEXICO.

None reported.

OREGON.

None reported.

TEXAS.

None reported.

WASHINGTON.

None reported.

WISCONSIN.

CHICAGO, ST. PAUL AND MINNEAPOLIS RAILWAY COMPANY.

C. W. Porter, Land Commissioner, Hudson, Wis.

LOCAL LAND AGENTS.

G. W. La Pointe, Wilson, Wis.
S. Omdahl, Menominee, Wis.
M. Arnstad, Eau Claire, Wis.
A. Hoffman, Chippewa Falls, Wis.
W. H. Smith, Eau Gallé, Wis.
E. Evenson, Osseo, Wis.

WYOMING.

None reported.

UTAH.

None reported.

LIST IV.

Land Attorneys and Real Estate Agents.

Addresses of Land Attorneys and Real Estate Agents who will be glad to render settlers all the assistance in their power. They will furnish, free of charge, full information concerning the lands in their neighborhood, and for moderate fees will undertake the entry or purchase of lands for any one at a distance who desires to settle in the county or town where they reside.

ALABAMA.

JACKSONVILLE.

L. W. Grant. Only Land Agent in Calhoun county.

JASPER.

W. B. Appling. Attorney. Special attention to land cases.

ARIZONA.

PHOENIX.

Wm. A. Hancock. Attorney-at-law. Land business a special practice.
Wm. O. O'Neil. Attorney-at-law. Land law a specialty.

TUCSON.

OATES & CORELLA. Special attention to land matters and mining litigation, and sale and purchase of mines and mining claims.

YUMA.

H. N. Alexander. Practices before courts and land offices.

ARKANSAS.

BATESVILLE.

T. B. Padgett. Taxes paid and collections made.

BENTONVILLE.

EDWIN M. LINZEE. Attorney and United States Claim Agent, Real Estate Broker and Notary Public, has been admitted to practice in all the Departments at Washington, D. C. Cancelled homesteads and all kinds of land claims a specialty. Refers to Hon. J. D. Walker, U. S. Senator, Arkansas, Hons. F. M. Gunther and J. E. Cravens, M. C., Arkansas.
McDaniel & McGill, Real Estate Agents.

CENTRE POINT.

A. B. Grace. Attorney and Real Estate Agent.

COTTON PLANT.

A. F. Maberry. Special attention to land business.

CROWLEY.

B. H. Crowley. Attorney-at-law. Land practice.

EL DORADO.

John H. Morris. Attorney-at-law. Attention to land cases.

FAYETTEVILLE.

Frank F. Smith. Correspondence solicited.
Geo. W. M. Reed. War Claim and Land Agent.

FORT SMITH.

John Carnall & Co. Real Estate Agents.

McClure & Wheeler. Pay taxes, make collections, enter lands.

HARRISBURG.

Freeman & Jones. Have 20,000 acres for sale cheap.

HARRISON.

JAMES T. PENN. Dealer in Soldiers' Additional Homestead Rights and Real Estate Agent. Have had experience in traveling in the Western States and Territories. Can give valuable information to the homeless. Correspondence on business solicited with stamp for reply.

LITTLE ROCK.

C. E. Kelsey & Son. Land Agents. Prairie lands a specialty.

Isaac Lawrence. General Land Agency.

MAGNOLIA.

Daniel & Emerson. Real Estate Agents.

MINERAL SPRINGS.

Huddleston & Wadley. Real Estate and Collecting Agents.

OZARK.

A. H. BOLES. Attorney-at-law and Land Agent. For sale, 100,000 acres of land, from $2.50 to $5.00 per acre. Government lands selected.

POWHATAN.

John K. Gibson & Co. Farming, mining, and timber lands.

RUSSELLVILLE.

W. C. Ford. Attorney-at-law and Real Estate Agent.

STAR CITY.

Alfred Wiley. Attorney and Real Estate Agent.

VARNER.

Geo. H. Joslyn, Lawyer and Land Agent.

WITTSBURG.

T. E. Hare, Lawyer. Transacts General Real Estate Business.

CALIFORNIA.

ARCATA.

Geo. W. Hopkins, Lawyer, Notary, and Land Agent.

COLTON.

Gregory & Gibson. Attorneys-at-law. Land cases.

COULTERVILLE.

C. L. Mast. Land business attended to.

CRESCENT.

L. F. Cooper. Prosecutes land and mining cases.

DIXON.

J. W. Cotton. Farm lands bought and sold.

DUTCH FLAT.

J. E. Prewett. Attorney-at-law. Attends to land cases.

EUREKA.

J. K. Dollison. Real Estate and Land Agent. Scrip for sale.

GRASS VALLEY.

A. Burrows. Mining and Land Lawyer.

INDEPENDENCE.

Roddy & Conklin. Land and Mining Attorneys.

LA PORTE.

Charles W. Hendel. United States Deputy Mineral Surveyor.

LIVERMORE.

John L. Mitchell. Real Estate and General Insurance Agent.

LOS ANGELES.

Will D. Gould. Attorney-at-law. Special attention to land law.

R. M. Widney. Land Lawyer. Patents secured for lands.

MADISON.

Jim. Mat. Stephens. Will furnish land information.

MARIPOSA.

John M. Corcoran. Attorney-at-law. Land and Mining claims.

L. F. Jones. Attorney-at-law. Land cases a special practice.

MARYSVILLE.

L. B. Ayer. Late United States Register. Land law a specialty.

NEVADA CITY.

J. M. Walling. Land business and correspondence solicited.

OROVILLE.

D. B. Hays. Real Estate, Insurance, and Collecting Agency.

RED BLUFF.

Chipman & Garter. Attorneys-at-law. Land Practice.

SACRAMENTO.

McFarland & Farr. Land Attorneys (late of United States Land Office).

SAN BERNARDINO.

Rolfe & Curtis. Attorneys-at-law. Land law a specialty.

SAN FRANCISCO.

Mullan & Hyde, 623 Commercial St. Land Lawyers.

J. A. Robinson. Land Attorney. Late chief clerk surveyor general

Hoyt & McKee. Merchants Exchange. Special attention to mining claims.

James F. Stuart. P. O. box 1395. Twenty years land experience.

Horace D. Dunn. Secretary Cala. Immigration Society.

W. H. Martin. Land Agent of Immigrant Aid Society.

Pacific Land and Trust Co. Real Estate Agents and Auctioneers.

SAN JUAN SOUTH.

James F. McMahon. Attorney-at-law. Land litigation.

SHEEP RANCH.

P. H. Kean. Notary Public and Real Estate Agent.

SONORA.

C. L. Street. Attorney-at-law. Contested land cases a specialty.

SAN LOUIS OBISPO.

P. A. Forrester. Real Estate Agent. Searcher of records, etc.

STOCKTON.

J. H. & J. E. Budd. Attorneys-at-law. Public land entries.

P. S. Wilkes. Attorney-at-law. Land law attended to.

TRUCKEE.

C. F. McGlashan. Attorney-at-law. Land business.

VISALIA.

D. K. Zumwalt. Land Attorney. Searcher of Records.

Brown & Daggett. Attorneys-at-law. Land and mining law.

WEAVERVILLE.

John G. Irwin. Attorney-at-law. Land law a specialty.

W. S. Lowden. United States Deputy Surveyor and Mining Engineer.

WHEATLAND.

Frank F. Carnduff. Attorney-at-law and Notary Public.

COLORADO.

CAÑON CITY.

Charles E. Waldo. Attorney-at-law. Land practice a specialty.

DENVER.

A. M. GHOST & CO. Have for sale and exchange city and ranch property. Gold, silver, copper, mica, and coal mines. Also a complete set of abstracts of title to all real estate in Arapahoe county. Publishers of the Colorado Bulletin of lands for sale; sent on receipt of stamp.

FAIRPLAY.

Fred. C. Morse. Mining Engineer and United States Surveyor.

GEORGETOWN.

John Tomay, Mining and Real Estate Agent.

GREELEY.

A. E. Gipson. Real Estate Agent and Dealer in Scrip.

LEADVILLE.

Wm. R. Wharton. Attorney-at-law. Mining litigation a specialty.

Nash & Thompson. Attorneys-at-law. Mining cases a special practice.

B. F. Betser. United States Deputy Surveyor and Mining Engineer.

LOVELAND.

E. M. Rhodes. Real Estate Agent.

SILVERTON.

Hudson & Slaymaker. Attorneys-at-law. Mining matters.

TRINIDAD.

Calvin W. Fisk. Real Estate Agent.

DAKOTA.

ALEXANDRIA.

James Baynes. Attorney and Real Estate Agent,

ALWILDA.

T. W. Brisbine. Real Estate Agent.

ASHTON.

W. C. Smart. Clerk of Court and Government Land Agent.

D. R. Hunt, Jr. Real Estate Agent.

BIG STONE CITY.

D. W. Diggs. Real Estate, Insurance, Collections and Loans.

Movius Bros. County Surveyors, Land Agents.

CALEDONIA.

T. G. Fladeland & Son. Law, Collection and Land Office.

CAMERON.

White & Rutan. Real Estate Agents. Correspondence solicited.

CAMPBELL.

W. W. Taggart. Land Agent. Information furnished.

CANTON.

J. C. Cline. Attorney-at-law and Real Estate Agent.

CASSELLTON.

Allen T. Tuttle. Real Estate and Public Land Agent.

DEADWOOD.

Henry C. Robleder. Mineral Surveyor and Mining Engineer.

ELK POINT.

W. D. PERCIVAL. Attorney-at-law and Real Estate Broker. Call upon or write to him soon, should you wish to secure good lands, good titles, and good bargains. He has 5,000 acres of choice farming lands for sale in south-eastern Dakota. Complete abstracts of title to lands and town lots in Union county.

ESTELLINE.

Curtis P. Parsons. Clerk of Court and Land Attorney.

FARGO.

A. J. Harwood. Manager of Land Department, Bank of Fargo.

Arthur H. Hasen. Land Lawyer and Real Estate Agent.

T. L. Lucas. Real Estate Agent.

James S. Stack. Land business attended to promptly.

FLANDREAU.

F. W. PETTIGREW. Clerk of District Court. Real Estate Dealer and Insurance Agent. Has large quantities of choice lands for sale in Eastern Dakota.

E. Huntington. Real Estate and Collecting Agent.

FOSTER CITY.

J. B. Churchill & Co. Real Estate and Locating Agents.

GRAND FORKS.

GEORGE H. WALSH. Attorney-at-law. Land, Insurance, and Collection Agent. Locates homesteads, pre-emption, and tree culture claims. Has corrected plats of all vacant lands in Grand Forks, Polk and Pembina counties. Only abstract office in Grand Forks county. The lands in this vicinity are very desirable, being rich farm lands, well watered, timbered, etc. The best place in the entire Northwest to settle. All letters of inquiry cheerfully and promptly answered.

Mr. Walsh is Clerk of the district court, and has been instrumental in entering for claimants, in less than one year, 155,200 acres of Government lands. He has located more settlers than any other land agent in the beautiful valley where he resides. Write him at an early day.

W. G. WOODRUFF. Attorney-at-law and Land Agent.

JAMESTOWN.

F. E. Jones. Land Agent.

E. P. Wells. Lands located.

MAXWELL CITY.

John E. Maxwell. Locates settlers in James River Valley.

PEMBINA.

H. R. VAUGHN. Clerk of Court. Real Estate Agent. Notary Public and Conveyancer. Special attention given to locating settlers on Government lands. Homestead, pre-emption, and timber culture entries made. Improved and unimproved prairie and timber lands for sale. Eight years experience in this county.

RAPID CITY.

H. N. Maguire. Land and Mining Lawyer.

SANBORN.

A. M. Pease. General Land Agent. Locates land.

SIOUX FALLS.

M. J. Gilman. Attorney-at-law. United States Land Office business.

SPRINGFIELD.

Clark S. Rowe. Land Attorney. Correspondence solicited.

SWAN LAKE.

S. FRYE ANDREWS. Notary Public and Real Estate Agent. Will pay taxes, loan money, and make collections for non-residents.

VALLEY CITY.

FREDERICK H. ADAMS. Has for sale Red River wheat lands on the Northern Pacific Railroad, from $2.50 to $5.00 per acre, on easy terms. Write him.

W. E. SMITH. Attorney-at-law and General Land Agent. Practises law in all the Territorial courts and United States land offices. Examines, locates, buys and sells all kinds of land. Circular containing valuable local information sent on application. Come with the rush for the rich lands of Dakota.

VOLGA.

Eagleson & Hall. Attorneys-at-law and Locating Agents.

WATERTOWN.

A. S. Wadsworth. Surveyor and Real Estate Agent.

D. C. & W. R. Thomas. Attorneys-at-law and Land Agents.

L. S. Deming. Real Estate and Locating Agent.

C. C. Wiley. Real Estate and Locating Agent.

WHEATLAND.

Vincent C. Pinkas. Information furnished freely.

YANKTON.

C. J. B. HARRIS. Attorney-at-law, Real Estate and Loan Broker. Has abstracts of title to all real estate in Yankton county. Has for sale lands in all parts of Southern Dakota, and Yankton City lots. Attends to all business before the United States Land Office at Yankton. Correspondence solicited.

George Roberts. Real Estate Agent.

M. M. Matthson. Real Estate Broker.

James A. Ward. Land and Loan Office.

DISTRICT OF COLUMBIA.

WASHINGTON.

HENRY BEARD. Attorney-at-law. Argues contested cases. Attends to the adjustment of grants to States, railroad companies, etc., before the General Land Office and Department of the Interior. Business established fifteen years. Office 633 F St. Special references furnished. Business established fifteen years.

CHARLES O. BROWN. Attorney-at-law, late of the General Land Office, 1212 G St., N. W. Lands, mines, and public surveys. Practises in the courts, before the Departments and Committees of Congress. Refers by permission to Hon. J. B. Chaffee and J. B. Belford, Colorado; Hon. D. P. Thompson, Oregon, and others.

M. D. Brainard. Attorney-at-law. Late law clerk of Interior Department.

CURTIS, EARLE & BURDETT. W. W. Curtis, Late Chief Clerk General Land Office; George Earle, Counsellor-at-law, Late First Assistant Post Master General; S. S. Burdett, Attorney-at-law, Late Commissioner General Land Office. Solicitors of Claims and Attorneys in Land Cases. They make a specialty of cases before the General Land Office, and also practice in the Court of Claims, and in the Supreme Court of the United States. Office, 700 Ninth St., Washington, D. C.

DRUMMOND & BRADFORD. (Willis Drummond, late Commissioner of the General Land Office, and Robert H. Bradford, late of the New Orleans Bar.) Practise in the United States Supreme Court, Court of Claims, and before all departments, bureaus, and commissions in Washington—giving special attention to law cases and all kinds of scrip.

A. St. C. Denver. Attorney-at-law. Formerly of California.

HORACE J. FROST. Lock box 613. Office 420 Sixth St., N. W. Prosecutes claims before the Departments. GENERAL LAND OFFICE.—Pre-emption, homestead, mineral, and other claims. Patents procured for suspended cases. Plats and diagrams furnished. Land grants adjusted. PENSION OFFICE.—Pensions for soldiers, mothers, brothers, sisters, widows, and children, obtained. TREASURY AND WAR DEPARTMENTS.—Bounties, war claims, drawbacks, etc.

ELLERY C. FORD. Attorney-at-law. Room, 23 Le Droit building. Special attention given to matters relating to mineral, agricultural, and grant lands. Nine years experience in the General Land Office. Six years in charge of the division of mineral claims and contests. Correspondence solicited.

Gilmore & Co. Successors to Chipman, Hosmer & Co.

Heylmun & Kane. Attorneys-at-law. Land law a specialty.

W. C. HILL. Land and Mine Attorney. Late an examiner of contested cases in the General Land Office. Room, 18 St. Cloud building (opposite the General Land Office). Contested pre-emption, homestead, and other land cases a specialty. Soldiers' additionals and land scrip of all kinds for sale.

CHARLES & GEORGE A. KING. Attorneys-at-law. No. 475 Pennsylvania Avenue. Practise before the General Land Office, in Court of Claims, and United States' Supreme Court. Soldiers' additional homestead claims bought and sold. Refer to Hon. S. J. R. McMillan, United States Surveyor, Minn.; Hon. Horace Austin, Register, Fargo, Dakota.

J. VANCE LEWIS. Attorney-at-law. Editor of Lewis's Land Cases. Soldiers' additionals and all kinds of land scrip for sale. See advertisement on a following page.

W. K. MENDENHALL. Land Attorney. Room, 3 May building, Cor. Seventh and E Sts. Attends to all matters relating to the public lands before Commissioner of the General Land Office and Secretary of the Interior. Mining claims a specialty. Dealer in additional homesteads scrip, warrants, etc.

MULLAN & HYDE. Pacific Coast Law, Land and Claim Attorneys. CALIFORNIA OFFICE, 623 Commercial St., San Francisco. WASHINGTON OFFICE and office as State Land Agents for California, Oregon, and Nevada, 800 10th St., N. W. Land cases of all kinds receive special attention.

WM. J. JOHNSTON, (late of General Land Office) Land and Mining Attorney, successor to Luce & Johnston, has had over twelve years' experience in land business and will prosecute all classes of cases under the land and mining laws. Best of references furnished if desired.

SAMUEL V. NILES. Attorney and Counsellor, office and residence, 1733 I St., having charge of the "Military Land Bureau," General Land Office, for several years, and an experience of more than twenty years' practice. Gives special attention to mineral, agricultural, grant, and other land cases.

Albert & L. H. Pike. Attorneys-at-law. Land law a specialty.

John Sherman & Co. Attorneys in land cases.

Walter H. Smith. Late Assistant Attorney-General for Interior Department.

R. O. Holtzman. Real Estate Broker. Washington real estate.

A. A. THOMAS. St. Cloud Building. Practises before the General Land Office. Contested land cases of all kinds prosecuted, and all classes of claims before the Executive Departments. Land Warrants, Homestead Floats and all kinds of land scrip purchased and sold. Correspondence solicited.

C. A. VEDDER. Land Attorney and dealer in Soldier's Additional Homestead Paper and Land Scrip. Room 3, May Building. Business promptly attended to.

FLORIDA.

MADISON.

Frank W. Pope. Attorney-at-law. Land cases attended to.

TAMPA.

James T. Magbee. Land Attorney. Orange lands for sale.

IDAHO.

BOISE CITY.

Brumback & Cahalan. Attorneys-at-law. Attention to land law.

F. E. Ensign. Attorney-at-law. Practises before the land officers.

ILLINOIS.

CHICAGO.

JAMES B. GOODMAN & CO. Farming and timber lands in Michigan, from 40 acres upward. Splendid wheat land near railroads, good markets and schools, $0.50 per acre and upwards. Easy terms, low interest. Also prairie lands in Kansas and other states and cheap Chicago lots for sale on long time.

G. A. Smith & Co. Mining interests. Titles examined, etc.

Handy & Co. Complete abstracts of title in Cook county.

EFFINGHAM.

H. B. Kepley. Real Estate Agent and Dealer

GOOD HOPE.

B W. Violets. Law and Collection Office. Taxes paid.

MORRIS.

E. SANFORD. Solicitor. Specialty—Money loaning for Eastern capitalists and attorney in suits for the collection of money and in land litigation.

Lucius Whitney. Land Agent.

PITTSFIELD.

Richard M. Atkinson. Real Estate Attorney.

INDIANA.

ELKHART.

Orville T. Chamberlain. Attorney-at-law.
Van Fleet & Bickel. Attorneys and Real Estate Agents.

GOSHEN.

Alfred H. Johnson. Attorney for land claimants.

INDIANAPOLIS.

G. M. Ballard. Dealer in land and land warrants.

KENTLAND.

David L. Bishopp. Attorney-at-law and Real Estate Broker.

WINAMAC.

M. A. Dilts. Real Estate Dealer and Auctioneer.

IOWA.

BELOIT.

Thos. Thorson. Real Estate Agent.

BURLINGTON.

John J. Ohrt. Real Estate, Collecting and Tax-paying Agent.

CASEY.

W. D. Kelsey. Attorney-at-law. Land law a specialty.

CLARINDA.

Raymond Loranz. Attorney and Real Estate Agent.

CORNING.

Frank & Elmendorf. Iowa, Missouri and Nebraska real estate.

FONDA.

F. Millard. Real Estate and Insurance Office.

GLENWOOD.

Starbuck & Ivory. Attorneys and Real Estate Dealers.

IDA GROVE.

D. S. Crain. Real Estate, Insurance, Abstract and Loan Office.

JESUP.

P. J. Van Hoesen. Land matters attended to.

LE MARS.

Clay & Richardson. Land Agents.

MALCOM.

CLARK VARNUM. Attorney-at-law and Real Estate Agent. Makes real estate law a special practice. Titles examined, money loaned, taxes paid, and non-residents' interests protected. Full information about Iowa lands cheerfully furnished. Collections made at any place.

MUSCATINE.

Thomas D. Smith. Insurance, Real Estate, and Loan Agent.

OSCEOLA.

J. S. Everett. Attorney-at-law, Real Estate and Loan Agent.

PORTLANDVILLE.

C. E. Robinson. Real Estate Agent.

PRIMGHAR.

WARREN WALKER. Attorney-at-law and Real Estate Agent. Special attention given to collections, quieting titles and paying taxes. Has complete abstracts of title to all lands, town lots, judgments and liens in O'Brien county. FOR SALE.—Improved farms and wild lands, of a quality and on terms that cannot fail to suit purchasers. Also improved farms for rent. If you wish to buy, now is the time. Lands will never be so cheap again in this rich State and magnificent county, the gem of Iowa.

ROCK RAPIDS.

THOMPSON BROS. Attorneys-at-law. Have 25,000 acres of the finest land in the world for sale, $3 to $8 per acre. Lands sold on commission.
Lyon County Bank. J. K. P. Thompson & Co. 50,000 acres of land for sale at low rates.

VICTOR.

I. H. S. Richards. Real Estate Agent. Abstracts of titles.

WALNUT.

E. R. Hinckley. Land and Loan Agent.

KANSAS.

ANTHONY.

Grove & Thomas. Real Estate Agents and Land Attorneys.

ARKANSAS CITY.

A. C. Williams. Real Estate Agent.

BELOIT.

Ross & Stevens. Attorneys-at-law. Real estate law.

BLUE MOUND.

W. P. Barnes. Notary Public and Real Estate Agent.

BUFFALO PARK.

HIBBARD BROS. Land Agents. Special attention given to locating Government lands and handling claims. Correspondence solicited.

CARBONDALE.

P. V. Griggs. Land, Insurance, and Collection Agent.

CHETOPA.

J. B. Cook & Co. Real Estate Agents.

CIMARRON.

W. P. Peter. Notary Public and Real Estate Agent.

CLAY CENTER.

Harkness & Godard. Real Estate Lawyers.

COLUMBUS.

Railsback & Wilson. Lawyers and Real Estate Agents.
Lawton & Cruson. Real Estate Brokers and Agents.

COUNCIL GROVE.

J. K. Owens. Attorney and Real Estate Agent.

EMPORIA.

S. B. Riggs. Real Estate Agent.

FREDONIA.

S. S. Kirkpatrick. Law and Real Estate Office.

FONTANA.

J. A. Arbogast. Real Estate Agent.

GARDEN CITY.

J. W. Weeks. Land Agent and Surveyor.

GARFIELD.

E. W. Grover. Real Estate Business.

GETTYSBURG

HARRY E. MITCHELL. Real Estate, Insurance and Collection Agent. The oldest and most reliable Notary Public and Conveyancer. All land business done satisfactorily and promptly.

GREAT BEND.

A. J. Buckland. General Land Agent.
D. J. Evans. Land Attorney and Claim Agent.

HARPER.

Samuel S. Sisson. Land Attorney.

HARTFORD.

W. F. Hetherington. Attorney-at-law and Land Agent.
T. B. Ness. Claim and Real Estate Agent.

HAYS CITY.

Eldridge, Beach & Co. Farms for sale.
F. W. Gunther. Stock ranch for sale.

HOLTON.

Hayden & Hayden. Land litigation a specialty.
M. S. Tousey. Real Estate and Tax Paying Agent.

HOUSTON.

O. G. Nevins, Attends to land office business.

HUMBOLDT.

LIKES & THWAITES. Allen County Land Agency. Our knowledge of lands in this and adjacent counties has been practical for the past ten years. Give us a call or write for information. Agents for railroad lands.

HUTCHINSON.

Brown & Bigger. Land Lawyers. Money to loan.

IUKA.

J. W. Ellis & Son. General Real Estate Agents.

JEWELL CENTER.

L. D. Raynolds, Notary Public and Real Estate Agent.

JUNCTION CITY.

A. C. PIERCE. Agent for railway lands, improved farms and city property, and for Cunard line of ocean steamships. Makes loans, pays taxes, and solicits correspondence.
H. H. Mead. Real Estate Agent.

KENNETH.

E. J. Turner. Attorney-at-law and Real Estate Agent.

KINSLEY.

W. C. Reed. Land Attorney.
Bill & Bruer. Loan Brokers and Real Estate Agents.

KIRWIN.

E. C. Towne. Land Agent.
Cook & Monell. Land Attorneys and Insurance Agents.
McBride Bros. Editors Kirwin Chief, Attorneys and Land Agents.
W. T. S. May. General Land Agent.

LARNED.

Scott & Corse. Real Estate and Loan Agents.

LAWRENCE.

D. S. Alford. Land Attorney for Douglass Co.

LINCOLN.

W. S. Wait. Attorney and Real Estate Broker.

LOUISVILLE.

R. S. Hick. Attends to litigated land cases.

LYNDON.

A. G. Kinsey. Land and Real Estate Agent.

MANHATTAN.

Brown & Limbocker. Real Estate Brokers.

M'PHERSON.

M'Dermid, Milliken & Myers. Land and Loan Agents.
Dingevon & Knapp. Real Estate and Loan Brokers.

MINNEAPOLIS.

Olney & Sexton. Land Attorneys. Editors Solomon Valley Mirror.

MODELL.

J. W. Langford. General Land Agent.

MOUND CITY.

Hamilton & Hyatt. Real Estate Agents.

OBERLIN.

Syl. L. Bishop. Surveyor and Land Agent.

OSBORNE.

Solomon Valley Land Agency, care of Truth Teller.
Walrond & Mitchell. Attorneys-at-law. Land law.

PAOLA.

Fargo & Gaylord. Real Estate Agents.

PARKERVILLE.

H. S. DAY. Resident Agent of Kansas Pacific, Missouri, Kansas & Texas, and Atchinson, Topeka & Santa Fe Railroads. Special attention to locating parties on Western lands.

PEABODY.

W. H. Mears. Real Estate Agent and Editor *Gazette*.

PIERCEVILLE.

John B. Prescott. Land Agent. Deputy County Clerk.

ROSCOE.

I. V. Flynn. Land Agent.

ROSSVILLE.

O. Le Roy Sedgwick. Pottawattomie Land Office.

RUSSELL.

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I have given your late publication, Copp's Hand-Book of Mining Law, such examination as my duties allowed, and find it an admirable compendium of this important branch of land law. The arrangement of the statutes and department instructions by topics is very convenient, as it is novel. The digest of decisions appears to be brought down to this date, and the forms published must be of much value to mine owners and their agents, while capitalists and business men will frequently consult your list of mining claims patented by the United States.

Very respectfully, E. M. MARBLE, Assistant Attorney-General.

From Hon. J. A. Williamson, Commissioner General Land-Office.

This work has evidently been prepared with great care, and cannot fail to be of great value to all interested in mining property, presenting as it does, in concise and convenient form, not only the laws regulating the disposal of mineral lands, but also a digest of the important rulings and decisions of the General Land-Office and the Department of the Interior, in regard to the subject of locating, holding and acquiring title to mining claims.

In short, your work is in fact, what its title indicates, a hand-book of the mining laws.

Very respectfully, your obedient servant, J. A. WILLIAMSON, Commissioner.

From B. C. Tiffany, Esq., Law Clerk, Interior Department.

I have examined your "Hand-Book of Mining Law," and find therein much important information published in a convenient form. It is valuable as a book of reference for officers and attorneys, and it cannot fail to be of great value to those interested in the location of mining claims. The mining laws, the instructions of the Land Department, and the digest of decisions thereunder, are so arranged as to be easily understood by those interested. I am confident that the knowledge that may be obtained from your publication would enable claimants to so prepare and prosecute their claims, that much delay, loss and litigation would be avoided. Yours respectfully, B. C. TIFFANY.

From Judge N. S. Howe, Law Clerk, Interior Department.

It is a comprehensive and well arranged digest of the laws and decisions pertaining to a large and increasing branch of national industry, and supplies a long needed *vade mecum* to those engaged either in mining study or its practical pursuit. I know of no publication on the subject containing so much valuable information. It is on my desk for constant reference, and should find its way into the hands of every one interested in the mining development of the country. I am, very respectfully, yours, N. S. HOWE.

From M. D. Brainard, Esq., late Law Clerk, Interior Department.

I find it to be a work that will, in my opinion, supply a want long felt by land lawyers and others interested in procuring title to lands under the Mining Laws of the United States.

The mining laws and Land-Office instructions, the digest of decisions, together with the list of forms necessary to be used in procuring title, will be of great convenience and value to the public. The plan of the book is excellent, and the arrangement of subjects treated is admirable, being concise, logical and convenient for reference. By consulting this book, mine-owners and claimants will be able to avoid the payment of consultation fees for legal advice; and, by having the laws and decisions before them, they may also avoid expensive and unnecessary litigation in many cases. The low price of the book places it within the reach of all, and no person interested in mines and mining, who consults his own interest, will be without it. Very respectfully, M. D. BRAINARD.

From Col. E. C. Ford, Attorney-at-Law, Washington, D. C., Late Chief of Mining Division, General Land-Office.

This book will prove of great value to the legal profession, and those interested in mining affairs, containing, as it does, the laws regulating the disposal of mineral lands, the instructions of this office thereunder, and in concise form a digest of all the important decisions of the General Land Office and the Department of the Interior, in regard to the locating, holding and patenting of lands.

I observe that you have incorporated into your work a complete list of all patents issued for mining claims.

This is the first list of patented mines published, and of itself is worth the full price of your work. Very respectfully, your obedient servant, ELLERY C. FORD.

From W. K. Mendenhall, Esq., Attorney-at-Law, Washington, D. C.

As a book for ready reference it is invaluable. By it the attorney may at a glance read the law of mineral lands, and ascertain the rulings of law bearing on mineral claims, decided by the Government Department. The applicant can, with this book before him, prepare completely and satisfactorily the papers necessary for the establishment of his claim; while the County Recorders and others interested may readily ascertain whether to current date patent has issued for any given mine.

The book is destined to become the "*vade mecum*" of all attorneys resident in the mineral regions or prosecuting mineral claims before the Department, as well as of the prospector and locator of mines on Government lands.

Wishing you success with the book,

I am, yours truly, W. K. MENDENHALL.

W. D. HILTON,

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The following notice is from the *Washington Law Reporter:*

A NEW LAW BOOK.

We have received an advance copy of a legal work of interest to all attorneys, especially those practicing before the Department of the Interior. It is published by Messrs. A. L. Bancroft & Co., and edited by Mr. Henry N. Copp.

The work is entitled "Decisions of the Commissioner of the General Land-Office and Secretary of the Interior, under the United States Mining Statutes of July 26, 1866, July 9, 1870, and May 10, 1872, with appendix of circulars and forms."

It is a careful compilation of the important decisions of Commissioners Drummond and Wilson, and Secretaries Delano and Cox, with the opinions of Assistant Attorney-General W. H. Smith, under the experimental lode law of 1866, the placer law of 1870, and the general mining act of May 10, 1872, with all the circular instructions issued under these statutes, and the amendatory laws of February 18, 1873, and March 1, 1873, together with a valuable series of forms for making the required proof, from the original location of a mine to the issuance of a United States patent.

The United States mining laws are the result of attempting to harmonize the peculiar local rights of possession that have become engrafted upon the public domain since 1849, with the power of the General Government to dispose of the same at its pleasure. The local laws of miners, as passed by themselves in their district meetings, or by State or Territorial legislatures, are recognized by Congress in all locations of mines prior to July 26, 1866. Since that date, and before May 10, 1872, they are acknowledged when not in conflict with a few general provisions. Since May 10, 1872, these local laws and customs are more restricted, and the Congressional requirements are more extensive and exacting in their nature. So various are the complications arising under these local and Congressional laws, that much study is requisite to enable attorneys to comprehend the status of a mining claim, or to be of any service to their clients.

Mr. Copp has given considerable attention to these local regulations, and is well posted in the intricacies of this complicated subject. His efforts to aid the profession, we are sure, will be appreciated, and his work will be found of great assistance to attorneys and all persons interested in the purchase of mineral lands in the Western States and Territories.

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[See Copp's Land Owner for September, October, November, and December, 1879, for letters of recommendation from prominent officials and lawyers.]